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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 346

Press
Mis.

Dated 27-4-1873.

Not to be folded or roughly handled

27TH APRIL 1893, No. 346, REVENUE.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 27th May 1892, No. 395:—

Read—the following letter from A. E. C. STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture (through the Collector of the Nilgiris), dated Coimbatore, 15th February 1892, No. 2264:—

With reference to paragraph 3 of Board's Proceedings (Revenue Settlement, Land Records and Agriculture), dated 9th January 1892, No. 17, I have the honour to submit, for the favour of early approval, the draft notification therein referred to so far as the Nilgiri-Wynaad is concerned.

2. A similar draft notification is being submitted through the Acting Collector of Malabar for Malabar-Wynaad.

3. The settlement of Nilgiri-Wynaad, including the Ouchterlony valley, has long since been introduced and Government publicly guaranteed that it should remain in force for the usual period of 30 years. I therefore respectfully submit that the action now ordered to be taken in accordance with G.O., dated 3rd December 1891, No. 1152, Revenue, should not be called a "re-settlement of the Wynaad taluks," which it is not, but a "revision of registration of private janmam lands" in those tracts which it practically is, and which alone it was apparently intended to be. Government has distinctly stated that the rates of assessment, classification, &c., already determined, will not be altered and there are extensive areas, both occupied and unoccupied, of Government janmam lands, the property of the State by escheat or otherwise, which will in no way be affected by the recent orders and in respect of which no further action whatever is necessary.

4. The Nilgiri-Wynaad consists of the following desams:—

- | | |
|----------------|---------------------------------|
| 1. Mutumala, | } forming the Nambalakod Amsam. |
| 2. Srimadhura, | |
| 3. Cherumuli, | |
| 4. Patantara, | |
| 5. Gúdalúr, | |
| 6. Devála, | } forming the Cherankod Amsam. |
| 7. Cherankod, | |
| 8. Erumad, | |
| 9. Munanad, | } forming the Munanad Amsam. |
| 10. Nellakóttá | |
| 11. Nelliylam | |

and the Ouchterlony Valley.

5. The whole of the Nellakóttá and Erumad desams are Government janmam property and they will therefore in no way be affected by the recent orders of Government.

6. In the rest of the Nilgiri-Wynaad there are only five recognized private janmis, viz.:—

1. The Nilambúr Tirumalpad.
2. Nelliylam Arasu (a minor under the Court of Wards).
3. Wandur Nambudripad.
4. Devála Moyar Gold Mining Company, Limited.
5. Pankunni Panikkar.

7. Of these Pankunni Panikkar is the recognized janmi of only 59.95 acres in the Cherankod desam, the patta for which already stands in his name. No change

whatever is therefore necessary so far as he is concerned. He is already the registered proprietor and the registered pattadar. Similar remarks apply to the Devála Moyar Gold Mining Company, Limited, which is the recognized janmi of 999.10 acres in the Nelliylam desam, the patta for which already stands in its name.

8. The Nelliylam Arasu is the recognized janmi of 1,444.29 acres in the Cherankod desam, the whole area forming the "Glenrock Estate" and held on patta by the estate-holders. He is also the recognized janmi of 19.42 acres in the Munanad desam, held on one patta; and of 7,173.45 acres included in 53 pattas in the Nelliylam desam. It is probable that the Collector as Agent for the Court of Wards, the guardians of the minor janmi, will designate the present pattadars as the representative of the Arasu.

9. The Wandur Nambudripad is the recognized janmi of 95.21 acres in the Cherankod desam included in four pattas; of 14.77 acres included in one patta in the Munanad desam; and of 1,141.36 acres included in 55 pattas in Nelliylam desam. I think it is probable that he will wish to designate the present pattadars as his representatives.

10. The Nilambúr Tirumalpad is the recognized janmi of the Ouchterlony valley and of the whole of the Nambalakod Amsam.

The following table shows the areas of his private janmam lands held on patta and the number of the pattas in each desam:—

	Extent of private Janmam.	Number of pattas.
Ouchterlony valley	...	...
Nambalakod amsam—	25,521.44	18
Mutumala	...	...
Srimadhura	476.48	40
Cherumuli	528.18	94
Patantara	6,035.36	59
Gúdálúr	4,613.02	158
Devála	6,676.86	268
	9,776.85	41
Total	28,106.75	660
Grand Total	53,628.19	678

I think it probable that he will also in the majority of cases record his desire that the pattas should remain in the names of the present pattadars as his representatives.

11. The whole of the rest of the occupied lands in Nilgiri-Wynaad is Government janmam and will in no way be affected by the recent orders. The pattadars of Government janmam lands are practically ordinary ryotwari ryots.

12. I would point out that the figures given above are taken from the Settlement registers and represent the state of affairs at the time of the settlement. Some slight changes may have taken place since the introduction of the settlement, but they must be sufficiently accurate to enable the Board and Government to see that no great change is needed in Nilgiri-Wynaad. If reference is kindly made to the published registers it will be seen that under column 11 the names of the recognized janmis have already been duly registered. The only alteration now necessary will be in column 12 "Number and name of Pattadar" where the patta was issued to the occupants of private janmam lands and not to the janmi, and where the janmi wishes to have the patta. Where the janmi signifies his wish that the present pattas shall stand in the name of the occupants, the only change that will be required will be to add in the pattas already issued after the names of the pattadars the words "as the acknowledged representative of the janmi, viz.,", and a similar entry will have to be added in column 12 of the printed register. If the Board and Government approve, printed slips can, after the revision has been carried out, be pasted in the appropriate columns of the registers already printed, so that the necessity for republishing these records may be avoided and time and expense be thereby saved.

13. In co-operation with the local Revenue officers, I hope to be able to carry out this revision of registration in the Nilgiri-Wynaad with little delay, and shall therefore

be glad to be favoured with early orders, so that the notification may be published and necessary action thereunder taken.

14. The draft notification closely follows the Government Orders on the subject, but attention is invited to paragraph 5, clauses (g) and (h), where the word "occupation" has been purposely introduced instead of "cultivation." The system of taxing cultivation only as heretofore was, after most careful deliberation, abolished by Government, and it was distinctly ordered that taxation was henceforth to be on occupation as everywhere else. I hope the Board and Government will allow these clauses to stand unaltered. Now that the grant of private janmam lands on darkhast by the Revenue authorities has been abolished, it is, I respectfully submit, necessary to point out to the janmi that when he grants his waste land to applicants, he should give prompt notice to the Revenue authorities so that the new grants which will of course be thus made with his knowledge and consent may be formally recognized and brought to account, and to stipulate that where he does not do so, any occupation that may be discovered must be dealt with as if it was without the janmi's knowledge or consent, when the procedure laid down by Government for such cases will be followed.

Endorsement by the Collector of the Nilgiris, dated Ootacamund, 1st March 1892, No. 63-B.

Forwarded. With reference to paragraphs 8, 9 and 10 of Mr. Stuart's letter, the undersigned has no information as regards the probable wishes of the janmis referred to, which the Settlement-officer will ascertain, but in regard to the Nelliylam estate, it will be necessary to treat with the parties, to whom, in the absence of an injunction, the estate is to be made over at the expiry of three months.

2. It is perhaps doubtful whether the words "legal position of titular dignity" used in paragraph 5 of Mr. Stuart's notification, are necessary.

(Signed) J. D. REES,
Collector.

Read—the following letter from A. E. C. STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Coimbatore, 29th March 1892, No. 2623:—

I have the honour to request the favour of early orders on my letter, No. 2264, dated 15th February 1892, regarding the revision of registration of private janmam holdings in the Nilgiri-Wynaad. The necessity for the publication of the notification, of which I submitted a draft for approval, at a very early date, is great, if that revision is to be carried out in time to enable the pattas to be issued to the janmis or their acknowledged representatives at the ensuing jamabandi of South-east Wynaad.

2. I have already reported demi-officially to Mr. Gibson that I saw the Collector of the Nilgiris on the subject on the 7th instant; Mr. Winterton, of the firm of Messrs. Cowdell and Winterton, the agents of the Nilambúr Tirumalpad, on the 8th instant; and the Divisional-officer, Mr. Cobb, on the 9th instant.

3. As pointed out in my letter of the 15th February 1892, the revision of registration in Nilgiri-Wynaad will be comparatively simple, as only five janmis have to be dealt with, viz.:—

- (1) The Nilambúr Tirumalpad;
- (2) The Wandur Nambudripad;
- (3) The Devála Moyar Gold Mining Company (Limited);
- (4) Pankunni Panikkar; and
- (5) The Nelliylam Arasu's estate.

As the pattas already stand in the names of Pankunni Panikkar and the Devála Moyar Company for the lands over which their janmam rights have been admitted, no revision of registration will be necessary in their cases.

4. When I wrote on the 15th February 1892, I was not aware of the fact that the minor Nelliyaalam Arasu was dead and that the Collector had been instructed to hand over his estate to two persons, named Puttiah and Belliah, sons of Nanjamma, step-sister of the deceased Linga Raja Arasugal, unless restrained by the injunction of a competent Court of Law within three months from the 1st instant. These two individuals—Puttiah and Belliah—will accordingly have to be dealt with as the jannmis of the late Arasu's property. Messrs. Cowdell and Winterton expected to be appointed their legal representatives, as also for the remaining two jannmis—the Nilambūr Tirumalpad and the Wandur Nambudripad. The Collector was strongly of opinion that, if possible, the revision of registration should be carried out, so that the revised pattas might be issued at the ensuing jamabandi to be conducted by Mr. Cobb before the end of the current fasli, and he asked me to arrange with the Divisional-officer. I discussed the subject fully, with both Mr. Rees and Mr. Cobb, and append copy of my letter, No. 2538, dated 14th March 1892, to the Head Assistant Collector, and his reply thereto, No. 522, dated 25th March 1892. It will be observed that Mr. Cobb hopes to have the permanent registers brought up to date by the middle of April, in which case I could have the revision of registration carried out in time for the revised pattas to be issued at the jamabandi. As already stated at paragraph 3 of my letter, No. 2264, dated 15th February 1892, the action to be taken should not be called a "re-settlement of the Wynaad taluk," but a "revision of registration of private jannmam lands." As Mr. Cobb points out, there is likely to be considerable uneasiness in the Wynaad if the planters should be led to suppose that the settlement already concluded, and which Government guaranteed would remain in force for thirty years, was going to be repudiated and revised. Both the Collector and the Divisional-officer thought that the revision of registration, which it was hoped would practically make little difference, should be carried out with the least possible disturbance, and that the planters should be re-assured with the least possible delay. I fully concur in this opinion, which I trust the Board and Government will consider right. I shall gladly do all in my power to effect the revision of registration ordered by Government as quickly as possible and to re-assure the people; but the first step is the publication of the notification. The task in South-east Wynaad will not, I anticipate, be difficult. Mr. Winterton thought it probable that his clients would designate their tenants—the present pattadars—in most cases as their future representatives where the jannmis had entered into written agreements with them, but that probably in those cases where there were no such agreements, the jannmis would elect to have the revised pattas in their own names.

5. The question of the revision of registration of private jannmam lands in the Wynaad—both Nilgiri and Malabar—should, I submit, be kept quite distinct from the general proclamation to be issued for Malabar proper, and I trust that the draft notification submitted with my letter, No. 2264, dated 15th February 1892, may be passed at any early date, so that all action thereunder may be taken in time to enable the revision to be effected at the ensuing jamabandi of South-east Wynaad.

ENCLOSURE No. 1.

From A. E. C. STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Acting Head Assistant Collector of the Nilgiris, dated Coimbatore, 14th March 1892, No. 2538.

With reference to our interview on the 9th instant, I have the honour to forward for your information copy of my letter, No. 2264, dated 15th February 1892, to the Board of Revenue (Settlement Department), with a copy of the draft notification therein referred to. The orders of the Board and Government on this subject have not yet been received; but I trust that they will be issued in time to enable the revision of registration in question to be effected before your ensuing jamabandi of Nilgiri-Wynaad. Meantime, I request that you will be so good as to have a complete copy of the permanent registers for each desam of South-east Wynaad, including the Ouchterlony valley, prepared up to date, so that any changes that may have taken place since the settlement registers were published may be dealt with. I should be much obliged if you could arrange to furnish me with a copy of the permanent registers fully written up by the 20th April 1892, so that, if possible, between that date and the end of May, the revision of registration

may be carried out, thus enabling you to complete the jamabandi and issue of the revised pattas by the end of the current fasli year—30th June 1892.

2. As we have personally discussed the various points noticed in the appended papers, it is unnecessary for me to recapitulate them. As you are aware, when I wrote my letter of the 15th February 1892, I did not know that the minor Nelliyaalam Arasu was dead and that it was in contemplation to hand over charge of his estate to Puttiah and Belliah, sons of Nanjamma, the step-sister of the deceased Linga Raja Arasugal; I should be obliged by your kindly furnishing me with the addresses of the said Puttiah and Belliah, so that they may be communicated with along with the other jannmis, whose wishes in regard to pattas which do not stand in their own names but in those of the occupants of their jannmam lands I shall have to ascertain.

3. The jannmis referred to will be the Nilambūr Tirumalpad, Wandur Nambudripad and Puttiah and Belliah, who will take the place of the late Nelliyaalam Arasu.

Mr. Winterton, of the firm of Messrs. Cowdel, and Winterton, informed me on the 8th instant that they would probably act on behalf of the Nilambūr Tirumalpad and the Wandur Nambudripad, and possibly also on behalf of Puttiah and Belliah. The only other recognized jannmis at the recent settlement were Pankunni Panikkar and the Devāla Moyar Gold Mining Company, but as the pattas for their land already stand in their names, no alteration will be necessary.

ENCLOSURE No. 2.

From H. V. COBB, Esq., Acting Head Assistant Collector, Nilgiris, to the Special Settlement-officer, Malabar and South Canara, dated Ootacamund, 25th March 1892, No. 522.

In acknowledging your letter of the 14th instant, with enclosures, I have the honour to inform you that previous to its receipt I issued orders to my Deputy Tahsildar to have the permanent registers carefully brought up to date, so that I quite hope to have them ready for you by the middle of next month.

2. While on this subject I take the opportunity of remarking that paragraph 12 of G.O., dated 3rd December 1891, No. 1152, Revenue, states in so many words that "the settlement of the Wynaad will have to be revised in accordance with this decision." This language is somewhat alarming and will probably cause considerable uneasiness amongst European pattadars whose estates have recently been settled for a period of presumably 30 years. To allay any misapprehensions on the subject, I would request that you should arrange, if possible, to take a short tour with me in April or May, when we would visit the more important of the landholders concerned and explain to them that their position will in no material way be interfered with or prejudiced by the changes now proposed to be introduced.

3. The information requested in paragraph 2 of your letter under reply will be given as soon as the addresses required have been ascertained in this office.

Read—the following letter from A. E. C. STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Trittala, 9th May 1892, No. 236:—

In continuation of my letter, No. 2623, dated the 29th March 1892, I have the honour to submit copy of letter, No. 853, dated the 29th April 1892, and its enclosures, from the Head Assistant Collector of the Nilgiris, and to report that the permanent registers of the ten desams of the Nilgiri-Wynaad that would alone be partly affected by the proposed revision of registration of private jannmam lands in that tract have been received from Mr. Cobb, written up to date.

2. I request the favour of very early orders on the subject.

ENCLOSURE No. 1.

From H. V. COBB, Esq., Head Assistant Collector, Nilgiris, to the Special Settlement-officer, Malabar and South Canara, dated Ootacamund, 29th April 1892, No. 853.

With reference to the correspondence ending with your letter, No. 2642, dated the 31st March 1892, I have the honour to forward herewith the settlement registers of the desams noted in the margin, corrected up to date, as promised in my letter, No. 522, dated 25th March 1892.

1. Gúdālūr.
2. Cherumuli.
3. Srimadhurai.
4. Mutumula.
5. Patantara.

6. Devāla.
7. Ouchterlony valley.
8. Nelliyaalam.
9. Cherankod.
10. Munanad.

2. I also enclose herein for reference copies of the Gúdalúr Deputy Tahsildar's reports, No. 232, dated 7th April 1892, and No. 256, dated 15th April 1892. The address of Puttiah and Belliah given in the first of the above two reports applies only to their present residence. If there is any change in their address after the estate is actually handed over to them, due intimation of the fact will be given to you.

ENCLOSURE No. 2.

From M.R.Ry. S. GANAPATHY AIYAR, Deputy Tahsildar of Gúdalúr, to the Head Assistant Collector, Nilgiris, dated Gúdalúr, 7th April 1892, No. 232.

With reference to your foot-note, No. 603, of the 31st ultimo, I beg to report that Uppukatti Puttiah and Belliah live at Uppatichal near Nelliylam attached to the Pandalur Post office. They may be addressed to the care of Mr. A. Wright, the Manager of the Nelliylam estate.

2. I beg further to report that the permanent registers are under preparation, and I shall submit them on or before the 15th instant.

ENCLOSURE No. 3.

From M.R.Ry. S. GANAPATHY AIYAR, Deputy Tahsildar of Gúdalúr, to the Head Assistant Collector, Nilgiris, dated Naduvatom, 15th April 1892, No. 256.

With reference to your memorandum, No. 458, of the 13th ultimo, I beg to submit herewith the settlement registers of the marginally-noted desams, corrected up to date, and to report that there is no private janmam property either in Nelakotta or in Erumad desam.

- | | |
|-----------------|------------------------|
| 1. Gúdalúr. | 6. Devála. |
| 2. Cherumuli. | 7. Ouchterlony valley. |
| 3. Srimadhurai. | 8. Nelliylam. |
| 4. Mutumala. | 9. Cherankod. |
| 5. Patantara. | 10. Munanad. |

2. In this connection, I beg to report that the several sub-divisions now noted in the registers have been only temporarily made and are not permanent.

Resolution—dated 27th May 1892, No. 395.

The papers read above, relating to the revision of settlement in the Nilgiri-Wynaad, will be submitted for the orders of Government, with reference to para. 12 of G.O., No. 1152, dated 3rd December 1891.

2. Mr. Stuart takes exception to the term "re-settlement" used in the Board's Proceedings communicating the Government Order above referred to. He points out that the settlement of the tract having already been carried out for a term of 30 years, and Government having directed that classification and rates of assessment shall not be altered, all that has to be done to give effect to the decision of the High Court is simply to receive the registration of private janmi lands and to issue pattas in the names of the janmis or the representatives whom they may appoint. But whatever term may be employed to designate the revision to be carried out, it is clear that the original settlement which was made with the tenants is null and void, and it is essential that a fresh settlement should now be made with the janmis. It may be said that the janmis had full knowledge of the terms on which the original settlement was carried out with their tenants in accordance with the practice previously in force and practically acquiesced in the arrangement, but as the settlement is now to be revised and made direct with themselves, it is only fair that they (janmis) should have due notice of the change and should be given the option of relinquishing any lands they may not wish to retain before the registration is revised and pattas are finally issued in their name or in those of the representatives appointed by them.

3. Of the eleven desams composing the Nilgiri-Wynaad, two—Nellakotta and Erumad—are entirely the janmam property of Government. These, Mr. Stuart states, will be unaffected by the recent order of Government.

In the rest of the taluk the private janmi lands, measuring some 64,575.74 acres, are owned by only five different proprietors, two of whom are already the pattadars of their lands, and no further action will be necessary in respect of them. The other three estates which cover a total area of 63,516.69 acres or nearly 100 square miles (including the Ouchterlony valley) are comprised under no less than 793 pattas in the

names of tenants; one of them, measuring acres 8,637, belonged to a minor under the Court of Wards, who has since died. The estate is claimed by the two sons of the step-mother of the deceased, but the Court of Wards retains charge pending a decision of Court as to the person entitled to succeed. Mr. Stuart states that Messrs. Cowdell and Winterton expect to be appointed legal representatives of the two claimants referred to above as also of the remaining two janmis—the Nilambúr Tirumalpad and the Wandur Nambudripad,—and they think it probable that their clients will designate their tenants—the present pattadars—in most cases as their representatives.

4. Referring to paragraph 14 of Mr. Stuart's letter, the Board observes that in carrying out the settlement of Wynaad, the revenue payable to Government has been fixed on actual occupation instead of on the supposed cultivation. Unoccupied lands, though claimed by janmis, cannot be assessed to revenue, but lands occupied for cultivation should, of course, be charged.

5. The question of reprinting the settlement registers will be considered after the revision is carried out.

6. The proclamation submitted by Mr. Stuart will, with slight modification, be submitted for the sanction of Government. The proclamation relating to the Malabar-Wynaad and to the rest of the Malabar district is submitted in separate Proceedings.

(True Copies and Extract.)

(Signed) P. RAJARATNA MUDALIAR,
Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Special Settlement-officer, Malabar and South Canara.

" " Collector of the Nilgiris.

" " Commissioners of Land Revenue.

APPENDIX.

Proclamation.

It has long been the revenue practice of the district to issue pattas for private janmam holdings to the actual occupants who have hitherto been regarded as the "land-holders" for the purposes of the Revenue Recovery Act (II of 1864). This practice was continued at the regular Revenue Settlement of the Wynaad when the ordinary "darkhast" and "razinama" system was formally introduced.

2. The registered pattadars of private janmam holdings are thus frequently not the janmis or real proprietors thereof, but, for the most part, persons holding, directly or indirectly, from the janmis. In some cases they are persons who have entered into occupation without the knowledge or consent of the janmis.

3. The High Court of Judicature, Madras, has recently decided that in the case of private janmam lands, the janmi is legally entitled to be registered, under Regulation XXVI of 1802, as the proprietor; that he alone can be treated as the "land-holder" under the Revenue Recovery Act (II of 1864); that the practice of dealing with the occupants of his lands (in cases where he is not in actual occupation himself) instead of with the janmi, for the purpose of assessment and realization of the land revenue, is anomalous; and that the practice of placing in occupation an applicant for waste lands—the property of a janmi—without giving the janmi the option of occupying such lands and paying the revenue thereon himself, is an unwarrantable extension of that anomalous practice. In short, the High Court has held that, in the case of private janmam lands, the Government must deal with the janmi or with his acknowledged representative both in assessing the revenue and in taking steps for its realization, and that all dealings with a third person who has not been put forward as his representative by the janmi, are absolutely void and of no effect.

4. With a view, therefore, to bring the public registers maintained under Regulation XXVI of 1802, and of which the pattas are the counterparts, into conformity with the requirements of the law as lately enunciated by the High Court; to safeguard

the revenues of the State; and to place the janmis in that legal position which the High Court has declared they should occupy, His Excellency the Right Honorable the Governor in Council is pleased to direct—

(a) that every occupied field or block of waste land, being private janmam property, shall be registered as belonging to the janmi who owns it;

(b) that in the event of rival janmam claims to such lands being set up, the Special Settlement-officer shall hold a summary inquiry and register the person who, in his opinion, may appear to have the best *prima facie* title, the other claimants being referred to the Civil Courts;

(c) that the pattas for all private janmam lands occupied for purposes of cultivation shall run in the name of the janmi unless he refuses registry or desires that the occupant shall be registered as his representative, in both of which cases evidence of the fact shall be recorded;

(d) that in the event of a janmi refusing registry, the patta shall be issued in the name of such tenant as may appear to the Special Settlement-officer, on making a summary inquiry, to possess the best title to it;

(e) that such pattas for occupied private janmam holdings as may have been issued to persons other than the janmis thereof shall be cancelled and fresh pattas remain in the names of the present pattadars as their representatives;

(f) that the practice of granting private janmam waste lands on darkhast by Government shall cease;

(g) that where such lands are occupied with the knowledge and consent of the janmi, it shall be his duty to give prompt intimation of the fact to the revenue authorities with necessary particulars as to the name of the occupant and the name, situation and extent of the land occupied. A patta for the land will then be issued either to the janmi himself or, should he so desire it, to the occupant designated by him as his representative;

(h) that where such lands are found to be occupied without the intimation above mentioned having been received, it must be assumed, for the protection of the public revenues, that the occupation was unauthorised by the janmi and that the occupant is a trespasser. In such cases it will be the duty of the revenue authorities to promptly notify to the registered janmi the extent of the land found to be occupied and the amount of the Government dues payable thereon for the year. The registered janmi will thereupon become legally responsible to Government for the said dues. It will be for the janmi to take steps, if he chooses, to eject the trespasser and recover the Government dues together with such rent as he may demand. In recovering the Government dues, in such cases, the crops on the land shall, in the first instance, be attached and the janmi's movable and immovable property shall not be proceeded against for a period of three months from the date of the notification to him, so that he may be enabled, meantime, to take the requisite steps for ejecting the trespasser. No patta for such unauthorised occupation will be issued unless the janmi desires it, and the change will last only as long as the occupation continues.

5. The registered pattadars of all private janmam lands who will, henceforth, be the janmis themselves or such persons as they may have expressly designated as their representatives, will, as regards Government, be the responsible proprietors of the lands registered in their names until they pass from their possession by sale for arrears or in some other legal manner. They will continue liable for the public dues, notwithstanding the transfer or disposal of any portion of their holdings, unless and until such transfer or disposal is formally registered in the land registers of the district. Transfers made without being so registered are not valid in the courts, the object of the legal registration being to fix the responsibility for the revenues of the State.

6. This revision of registration of private janmam lands in the Wynaad which has been ordered by Government to meet the requirements of the law as propounded by the High Court will in no way affect the settlement recently introduced into that tract so far as the classification of lands, rates of assessment, settled demand, &c., are

concerned. It will merely, by alteration of the names of pattadars in the case of private janmam holdings, place the janmis in that legal position which the High Court has decided they must hold.

READ—the following Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 31st May 1892, No. 402:—

Read—letter from the Ag. Collector of Malabar, dated 4th May 1892, No. 512-R. Gl.

ABSTRACT.—Stating that this office letter, Reference on C. No. 171-P. of 1892, dated 4th February 1892, submitting the draft proclamation called for in Board's Proceedings, dated 9th January 1892, No. 17, was despatched on the 5th February, and that a copy of the letter is now submitted.

ENCLOSURE No. 1.

From J. W. F. DUMERGUE, Esq., Acting Collector of Malabar, to the Secretary to the Commissioners of Land Revenue, dated Calicut, 4th February 1892, Ref. on C. No. 171-P.

With reference to paragraph 8 of the Board's Proceedings, dated 9th January 1892, No. 17, I have the honour to submit a draft of such a proclamation as is referred to in paragraph II of G.O., dated 3rd December 1891, No. 1152, Revenue, regarding the settlement of Malabar.

2. I regret to say that owing to inaccurate and imperfect accounts which have appeared in the newspapers, considerable apprehension prevails in the minds of both janmis and tenants as to the intentions of the Government. In the draft proclamation which I now submit I have endeavoured, to the best of my ability, to place those intentions beyond doubt, but I am not at all sure that I have succeeded in correctly representing the situation.

It appears to me that the following points in paragraph 3 of the proclamation I have drafted require explanations on my part and definite orders from the Board and Government.

3. In paragraph 3 (2) I have stated that "all lands comprised in a desam will be surveyed and demarcated." This I fear is opposed to the wishes of the Survey officers who, I understand, desire that *cultivable* lands alone should be surveyed and demarcated by them, the uncultivable area being left for subsequent measurement not necessarily demarcation, by menons. But the declared object of Government (*vide* paragraph 3 of the Government Order) is to "register all janmam titles" and this cannot be done unless all lands are surveyed and demarcated by the Survey Department prior to settlement. If the uncultivable area is not dealt with now, the greatest confusion will prevail hereafter with regard to janmam titles, when lands are newly brought under cultivation or when disputes as to valuable forests, which form so large a portion of the uncultivable area in Malabar, arise.

Forests and hills belonging to one and the same janmi may of course be found with survey blocks of great extent and any sub-divisions necessary on account of cultivation on transfers hereafter made by menons, but there is another fact which must not be lost sight of. This is that cultivation is frequently carried on in the heart of the forest, and unless the present survey is complete and accurate may remain unnoticed in the uncultivable area and thus escape assessment. I am, therefore, strongly of opinion that all lands without exception should be surveyed and demarcated.

4. The most convenient size for survey "fields" will be discussed in a separate letter which I am submitting through the Deputy Superintendent of Survey, but I think it is essential that, as proposed in paragraph 3 (3) of the draft proclamation, every janmam "estate" should be separately demarcated and registered. Unfortunately thousands of such "estates" consist of only a few cents each, but unless the course I recommend is adopted, the registry of janmam titles will be imperfect and registration will foster, instead of repressing, litigation.

5. In paragraph 3 (4) of the draft proclamation I have alluded to a column in the Settlement register for the name of the janmi. No janmi will ever consent to the registry of his janmam land as the janmam land of his tenant, though one may consent to the registry of his tenant as the puttadar. It is, I submit, absolutely indispensable that the distinction between the janmi and the puttadar should be maintained by registry in different columns of the register, and this, I presume, is what is intended by paragraph 2 (IV) of the Proceedings of the Board, dated 9th January 1892, No. 17, in the Settlement Department.

6. The question of levying assessment on all lands or only on lands actually occupied is dealt with in paragraph 3 (5) and (6) of the draft proclamation, and while earnestly recommending that a definite intimation on the point should be now published, I think I have not misinterpreted the orders of the Board and Government. The view I have taken appears to me to be authorised by the present orders, as it is certainly authorised by paragraph 3 of G.O., dated 22nd July 1888, No. 611, Revenue, and by paragraph 4 of G.O., dated 17th May 1888, No. 354. In the former order Government, stating that land revenue "cannot fairly be assessed on land which is not occupied," declined to accept the proposal that "all cultivable waste land belonging to janmis shall be assessed to revenue." In the latter order Government ruled that assessment can be levied only on lands actually occupied by tenants and not on lands merely claimed by janmis. The matter is of such great importance and has caused so much anxiety in Malabar that I have deemed prominent notice of it advisable.

7. Throughout the draft proclamation I have used the word "tenant" wherever it occurs in the meaning attached to it in the Malabar Compensation for Tenants Improvement Act I of 1887.

8. As the whole district is to be settled on the same principle, I have included in the draft proclamation a notice regarding the revision of settlement in Malabar-Wynaad. But I regret to have to state my opinion that, on the Settlement registers as they now stand, the accurate registry of janman title derived by Government is impossible and consequently that revision of settlement is impossible. On a previous occasion I have pointed out the uncertainty which exists as to the janman titles over many lands and this uncertainty is increased by the fact that, in some instances, two individuals are registered as the janmis of a survey field sometimes very considerable in extent. As an illustration of this point, I would refer to survey No. 919-B, in the Muppanad desam. The extent of this field is 6,480 acres and Ukkoran Nair and the Nilambur-Tirumalpad are registered as the proprietors. They are, however, not partners but rival claimants, and granting for the present that the lands included in the survey number are their private janmam, it is quite impossible to define their respective rights. This is a very formidable difficulty in the registration of titles, and another obstacle to settlement on the basis of the present register is that wet and dry lands are included in the same survey field. This is so diametrically opposed to the strict rule of survey that the mistake would be incredible were it not pointed out on the authority of the Special Settlement-officer himself. It will, however, be found in a statement furnished by the Special Settlement-officer on the 3rd October 1891 regarding certain lands in Kalpetta desam that two *vel* lands—Arakamunda nilam and Kakka-ponnu nilam—items Nos 6 and 7 in the list, are included in survey number 150 with items Nos. 11 to 14, 16 and 17 which are *dry*, being kunnus or hills.

Under these circumstances I must submit that a revision of the survey of Wynaad is indispensable as a preliminary to any proper and satisfactory revision of settlement.

ENCLOSURE No. 2.

Proclamation.

1. It is hereby notified for general information that Government has, after mature deliberation, resolved that the principle on which the Revenue settlement of Malabar shall be conducted is the principle of settlement with the janmi.

2. This resolution is founded on the existing laws and regulations having the force of law and on the interpretation thereof given by the highest tribunal in the Province. That tribunal has declared that the janmi in Malabar, being admittedly the proprietor of land, has a legal right to be considered the "land-holder" within the meaning of Act II of 1864 and is the person in whose name the land should stand in the Revenue register maintained under Regulation XXVI of 1802. Hence, for the purposes of the Revenue Recovery Act II of 1864 it is the janmi between whom and the Government the engagement with regard to the revenue has to be made and against whom measures must be taken for its realization, unless the janmi has put forward, or expressly allowed, a third person to represent himself as the owner of the land.

It follows therefore that registration of the janmi as the "land-holder" being compulsory at law, settlement with him or his acknowledged representative is the only legal course. At the same time Government desires it to be widely known and understood that the principle of settlement which has now been finally adopted does not in any way affect the land tenures obtaining in the district; that it does not in any way disturb the prevailing relation between landlords and tenants; and that it does not in any way prejudice the proprietary right of land-owners. On the one hand the clear and unequivocal registration of all janmam titles will facilitate the realization, in a manner recognized by law, of the revenue to which Government is entitled. On the other, the adjustment of them between landlords and tenants and the modifications thereof inevitable on a revision of settlement will, as heretofore, remain matters of contract; but uncertainty of proprietary right and consequent grounds for litigation will be minimised, the security of landlords and tenants alike being thereby promoted.

3. In order to remove any doubt which may exist on the subject, Government now proceeds to indicate the lines on which settlement will be conducted:—

- (1) The desam will be taken as the unit.
- (2) With a view to the accurate registration of janman titles, all lands comprised in a desam will be surveyed and demarcated into blocks of fields of a size suitable to circumstances.
- (3) Every individual janman "estate," of whatever extent, will be separately demarcated and registered.
- (4) The name of the janmi of each such "estate" will be ascertained by summary inquiry and will be entered in the appropriate column of the Settlement register, subject to the ultimate decisions of Civil Courts in cases of dispute.
- (5) Rates of assessment will be fixed for all cultivable lands, but will be levied only on such of those lands as now are, or hereafter may be brought, under occupation.
- (6) Other lands will be surveyed as "uncultivable waste" and will not be assessed. Should any of them hereafter be reclaimed and occupied, the rates of assessment imposed on neighbouring lands of similar quality will be levied.
- (7) The settlement will be based on a field assessment, which will be a great convenience not only to the Government in recovering the revenue but also to the people in adjusting its incidence among themselves.
- (8) Pattas will be granted for lands under occupation whether they form the whole or only part of a survey block.
- (9) The janmi of each land will be required to state in writing whether he wishes the patta to be issued in his name or in the name of the tenant.
- (10) The same procedure will be adopted when land now unoccupied, whether assessed or unassessed waste, is brought under occupation.
- (11) Unless the janmi refuses patta or desires that it should be issued in the name of the tenant, it will be issued in his name. If he refuses to accept patta himself and signify his consent to the issue of patta in the name of the tenant, but continues to allow the land to remain under occupation for three months after notice given on behalf of Government, patta will be issued in the name of the tenant with the highest title.
- (12) There will be a separate series of pattas for each desam. Lands belonging to the same janmis and situated in the same desams and held by the same occupant will be entered in the same patta, whether the patta runs in the name of the janmi or, when the occupant is a different person from the janmi, in the name of the occupant.

4. After the decision at which Government has arrived the system of darkhasts and relinquishments in the Wynaad must be abandoned. The settlement of Wynaad will therefore be revised in accordance with the principles laid down above.

Transferred to the Department of Revenue Settlement, Land Records and Agriculture, with reference to Board's Proceedings, dated 28th January 1892, Mis. No. 619 (Land Revenue).

10th May 1892.

(Signed) H. A. SIM,
Acting Secretary.

Read—the following letter from A. E. C. STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Coimbatore, 30th March 1892, No. 2626:—

With reference to the letter of the Acting Collector of Malabar, Reference on C. No. 171-P. of 1892, dated 4th February 1892, and its accompanying draft proclamation, copies of which were forwarded to me with Board's Proceedings (Revenue Settlement, Land Records and Agriculture), dated 18th February 1892, No. 1762, Mis., received by me only on the 1st instant, I have the honour to offer the following remarks for such consideration as they may be thought worthy to receive.

2. Paragraph 4 of Mr. Dumergue's draft proclamation makes reference to the revision of the settlement of the Wynaad. I am strongly of opinion that the proclamation should only deal with the general principles enunciated by Government for the settlement of Malabar proper, i.e., for all the taluks of Malabar yet to be settled, and not to the special settlement of the Wynaad taluk already completed. I respectfully submit that the question of the revision of registration of private janmam lands in the Wynaad—both Nilgiri and Malabar-Wynaad already settled—should be kept quite

distinct from the general proclamation dealing with Malabar proper yet to be settled. With my letters, No. 2264, dated 15th February 1892, and No. 2282, dated 17th February 1892, I submitted, through the Collectors of the Nilgiris and Malabar, respectively, draft notifications regarding the "revision of registration of private janmam lands" in Nilgiri and Malabar-Wynaad, and I trust that the Board and Government will not permit the two distinct matters to be dealt with together in the same proclamation. I have, in those letters, as also in my letter No. 2623, dated 29th March 1892, and its appendices, shown reason why it is essential that the minds of the people of the Wynaad generally, and especially the large body of planters whose estates have been settled in a special manner under the orders of Government, should not be further disquieted by the suspicion that the *settlement* already completed there and which Government publicly guaranteed should remain in force for 30 years is now to be repudiated and that any "*resettlement*" is in contemplation. Much uneasiness has already been caused, and it is in my opinion essential in the public interests that that disquietude should be allayed. If I read the Government order correctly, all that is intended so far as Nilgiri and Malabar-Wynaad is concerned is a "*revision of registration of private janmam lands*;" so that the pattas already issued to *occupants* in accordance with the former orders of Government, in accordance with which the Wynaad settlement was conducted, should be revised so as to stand in the name of the *janmis* or *their designated representatives*, and that private waste janmam blocks should be registered in the name of the real janmi so far as he can be discovered. The Government in G.O., dated 22nd July 1886, No. 611, Revenue, "arrived at the conclusion that the proper course was to make the settlement of the Wynaad an entirely special one," and it was so treated. I submit that no reference to that settlement is expedient or necessary in any general proclamation relating to Malabar proper which remains to be settled. The draft notifications already submitted with respect to the revision of registration of private janmam lands in the Wynaad will, I submit, meet the views of Government in respect of what is desired to be done in the Nilgiri and Malabar-Wynaad, and I therefore submit that paragraph 4 of Mr. Dumergue's draft proclamation, which should relate to Malabar proper only, should be expunged.

3. In my letter, No. 2318, dated 19th February 1892, I indicated some of the points that I thought should be considered with reference to the survey operations to be conducted for settlement purposes, and I request that those remarks, submitted through the Superintendent of Survey and the Acting Collector of Malabar, may be dealt with when the question of the general proclamation for the Malabar district proper is being considered.

4. *Paras. 3 and 4 of Mr. Dumergue's letter.*—I fully concur in Mr. Dumergue's view that all lands in every *desam* should find place in some definite survey field or sub-division of a survey field, special care being taken that "wet," "dry" and "garden" lands, respectively, whether cultivated or uncultivated, should be kept distinct and that no survey field or sub-division should contain more than one kind of such land. The following is briefly what I consider necessary for settlement purposes:—

1st.—The boundaries of each *desam* should be permanently demarcated and surveyed.

2nd.—Each separate private janmam "estate" in each *desam* should then be permanently demarcated and surveyed. Many of these are of very small extent and the "estate" of one and the same janmi often lies in different parts of a *desam*, in which case that janmi would practically be regarded as having two or more separate "estates" in the *desam*.

3rd.—Next, each "estate" should be divided into fields, each field containing only "wet," "dry" or "garden" land and not two or more of these kinds of land in the same field.

4th.—These survey fields should not exceed 6 acres of occupied wet, 12 acres of occupied dry and 10 acres of occupied garden, respectively. The surplus, whether "unoccupied," "wet," "dry" or "garden," might be of any extent, provided the

separate kinds were kept distinct and all belonged to the same janmi. Unoccupied hills and forests would thus fall into some one or more definite fields, care being taken that not more than one janmi's property falls into any one field.

5th.—*Unculturable* areas, which in other districts would be called *poramboke*, should have separate sub-division numbers and these areas alone would not be assessed. Mr. Dumergue would apparently include "hills and forests" in "uncultivable" areas. This would, I think, be a mistake.

6th.—All other areas, whether "wet," "dry" or "garden" (and under "dry" would fall hills and forests), should be assessed at a definite rate per acre, but the assessment would not be leviable unless or until they were *occupied*.

7th.—Sub-divisions of survey fields need not, I think, be permanently *demarcated* by the Survey Department, provided they were duly measured and areas furnished with a sketch. If the janmis wished these to be demarcated, they should be left to have the demarcation done subsequently by the *menons*.

8th.—Similarly, Government janmam lands should be shown separately, but as the *ryots* of such lands are practically *ryotwari* tenants, each *pattadar's* holding would have to be separately demarcated.

5. *Paragraph 5 of Mr. Dumergue's letter.*—I append copy of the combined "Survey and Settlement Register" already sanctioned in Board's Proceedings (Revenue Settlement, Land Records and Agriculture), dated 27th September 1889, No. 460, for the Malabar district proper, which, it will be observed, meets what Mr. Dumergue thinks necessary and in which opinion I fully concur. Column 20 will contain the name of the janmi and column 21 that of the *pattadar* who may or may not be the janmi according as the janmi may elect to have the patta himself or to expressly designate a third party as his acknowledged representative. Mr. Dumergue was apparently not acquainted with this form or with the Board's Proceedings referred to when he wrote.

6. *Paragraph 6 of Mr. Dumergue's letter.*—All cultivable lands, wet, dry or garden, occupied or unoccupied, should, I think, be assessed at a definite rate per acre, but assessment would only be *levied* when such lands are *occupied*, whether by the janmi himself or his tenants. Thus waste forest merely in the *possession* of a janmi but not *occupied* by him or his lessees, tenants, &c., would merely remain registered as his assessed waste, but no assessment would be levied until it was occupied for cultivation purposes. I presume forest merely worked for timber by the janmi or his lessees, &c., but not *felled* for purposes of cultivation would not be required to pay the acreage rate of assessment that might be imposed upon it. The only *unassessed* areas should in my opinion be the unculturable areas, such as rocks, rivers, tanks, &c. The point requires very definite notice, and I trust the Board and Government will make it very clear.

7. *Para. 8 of Mr. Dumergue's letter.*—I submit that these remarks are irrelevant to the general proclamation to be issued for the Malabar district proper excluding Wynaad, but I cannot permit Mr. Dumergue's remarks to remain altogether unnoticed. As pointed out in paragraph 4 of my letter No. 2282, dated 17th February 1892, the "revision of registration of private janmam lands" in the Malabar-Wynaad will necessitate considerable work and further survey. At the settlement of the Wynaad we dealt with the *occupant* and had nothing to do with the janmi, and as the *escheat* inquiry proceeded from *escheat to title* and not *vice versa* in almost all the *desams* of Malabar-Wynaad and as all inquiry into private claims to lands regarding which no evidence of *escheat* was forthcoming was expressly forbidden, it will be necessary to do summarily now what was then prohibited. The names of reputed janmis of such private janmam lands were entered without any investigation of their claims. Such having been forbidden, but now that the janmi as far as he can be discovered by a summary inquiry must be ascertained for the purposes of *registration*, a great deal of work will be involved, not only in the summary inquiries to be made, but in giving effect to them, by sub-dividing by survey the different private janmis' lands which at the settlement were blocked. In the case referred to by Mr. Dumergue, viz., survey No. 919-B in the Muppainad *desam*, two private rival janmis claimed and both their

names were registered; but as the lands were waste and unoccupied, it was not necessary for the purposes of the settlement "to define their respective rights," as it was immaterial to Government then who had the best title or to what portions of the waste their respective claims extended. Now that the janmi has to be registered for the purposes of the recent orders of Government, a summary inquiry will be necessary and that survey number and many others like it will require sub-divisions. Mr. Dumergue also would have the Board and Government believe by the two instances he gives that wet and dry lands were generally included in the same survey field. This is perfectly erroneous, and I think he would find it difficult to cite any two other cases in the whole of the Wynaad. I know of none other. In the two particular cases, the two *nilams* had for ages been waste, merged in a large dry waste block of hills and scrub, and therefore included by mistake by the survey in that block. They are practically dry lands and their assessment at the block rate is as high as their assessment would have been if they had been separated. The Board and Government will doubtless notice how Mr. Dumergue is constantly serving up these two waste blocks, apparently the only ones in the whole of the Wynaad in which his microscopic inquiries for three-fourths of a year have been able to discover the most trivial errors. For the revision of registration of private janmam lands and the consequent further survey work that will be necessary in the Wynaad, the Wynaad settlement is in no way responsible. The reason why the registers as they stand cannot be taken as the basis of the new registration in the case of private janmam lands in the Wynaad is that it was only in those cases where private claims extended to lands, in respect of which evidence of escheat was available, that private titles were examined. As already stated the orders in force precluded any investigation of other titles, which, however, the recent orders will necessitate though the investigation can be made summarily, and the janmi having the best *prima facie* right to be registered can be registered. Where two or more private janmis can show *prima facie* title to lands in one survey field, there will have to be a sub-division of that field.

8. I beg to append a draft proclamation for Malabar proper *excluding Wynaad*, which I request may be considered along with Mr. Dumergue's draft. I submit that whatever proclamation is eventually ordered to be published should be published by the Settlement Department after the orders of the Board and Government have been received.

Read—the following letter from J. W. F. DUMERGUE, Esq., Acting Collector of Malabar, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Calicut, 16th March 1892, Ref. on C. No. 1092-R. :—

With reference to the Board's Proceedings, No. 17, dated 9th January 1892, I have the honour to forward a letter No. 85-R., dated 1st instant, from the Superintendent, Madras Survey, enclosing a letter No. 2318, dated 20th ultimo, from the Special Settlement-officer, Malabar and South Canara, regarding the survey of Malabar in connection with the principles of settlement laid down in G.O., No. 1152, Revenue, dated 3rd December 1891.

2. Some of the questions now dealt with have been discussed in my letter, Reference on C. No. 696 of 1892, dated 6th February 1892, which I addressed to the Deputy Superintendent, No. V Party, Madras Survey, for transmission to the Superintendent and to the Board. Apparently, however, the Superintendent have not seen that letter and a copy of it is enclosed, although it will now be necessary for me to go over some of the same ground again.

3. The Superintendent has adopted the classification of lands into "wet," "garden" and "dry" as proposed by Mr. Stuart and accepted by the Board in its Proceedings, dated 21st July 1888, No. 337. Unless this classification really promotes the convenience of survey and settlement, it appears to me unnecessary and I must

point out that in paragraph 7 of G.O., dated 22nd July 1886, No. 611, Revenue, the Government saw "no reason to have more than two main divisions—one *wet* to comprise paddy flats of all kinds, locally known, it is believed, as Nelli kandams; and the other *dry* to include all other lands, *modan ponam* or estate cultivation."

4. This latter classification has the advantage of simplicity, and if it is argued that the Government Order had reference solely to Wynaad, the answer is that there is no reason why the so-called "gardens" which are in reality coconut and pepper plantations should not be included in "dry" lands just as much as "estates" or cardamom plantations are so included.

5. Another fact in favour of having only two main divisions, wet and dry, is that dry lands are constantly being converted into so-called "gardens" and it is obviously an advantage to adopt a classification which will minimise future chances of discrepancy between the actual description of lands and the settlement register. Hence unless any good reason can be shown to the contrary, I would recommend that the two main divisions already prescribed by Government for Wynaad be prescribed for the rest of the district.

6. The order of Government, No. 602, dated 20th July 1886, has not been communicated to my office and I had not therefore seen it when I wrote my letter,* dated the 4th February 1892. I have

now obtained a copy from the Deputy Superintendent and submit that whether the survey of forests is undertaken by the Madras Survey or the Survey of India, the necessity for demarcating private janmam "estates" which consist of forests remains the same.

7. I am not quite sure that I understand the meaning of clause 5 of rule 2 proposed by the Superintendent, Madras Survey. The words are "waste land no limit. Janmams need not be sub-divided" and may possibly be construed to signify that janmam estates need not be sub-divided out of a large waste block. I do not think this can be the meaning because according to clause II of rule 1 which is in accordance with the Government Order under reference, janmam boundaries are to be demarcated, but I would suggest that all doubt should be removed.

8. In rule 6, the Superintendent, Madras Survey, has accepted Mr. Stuart's theory propounded in paragraph 5 of his letter that tenants of Government janmam lands "are practically ordinary ryotwari holders under Government." This statement reveals an extraordinary misapprehension of Malabar land tenures. So far as the question of *revenue* is concerned, the only difference at present, between dealing with pattadars who are tenants of Government janmam lands and dealing with pattadars who are tenants of private janmam lands, is that in selling, for arrears of revenue, lands occupied by the former, no reference to a janmi is necessary, because Government is the janmi. When in consequence of the present orders, settlement is made with private janmis or their acknowledged representatives, even this difference will disappear. Hence in many cases at present and in all cases in future, Mr. Stuart's description might be applied with equal inaccuracy to tenants of private janmam lands.

9. On the other hand, so far as the question of *Janmabhogam* is concerned, tenants of Government janmam lands have nothing in common with "ordinary ryotwari holders under Government." The occupancy of the former is assured as long as they pay the assessment, but the latter, though they pay the assessment, may nevertheless be evicted if they fail to pay the janmabhogam. Thus the respective position of Government towards these two classes is very different, because as pointed out by the Secretary of State in 1873, Government is restricted, for the recovery of its dues from the ordinary ryotwari holders, to action under Act II of 1864, while it can not only recover assessment from the tenants of its janmam lands under that Act, but can also as the janmi recover janmabhogam, if not under Act VIII of 1865, at any rate by recourse to Civil Courts. Hence it is clear that Mr. Stuart's definition besides being inaccurate would, if perpetuated, tend to prejudice Government by limiting its powers to the recovery of assessment under Act II of 1864. Hence while I think the demar-

cation of Government janmam lands according to tenancy advisable, I am strongly of opinion that the words "whose position in Malabar is the same as that of the pattadar in other districts" in rule 6 should be omitted.

10. With reference to rule 7 proposed by the Superintendent of Madras Survey, it appears to me that if tenancies in private janmams are to be left for measurement by the menon after settlement, serious difficulties will arise. According to the orders of Government, janmis are to be asked for the purpose of settlement, whether they wish pattas to be issued in their own names or in the names of their tenants and there is no doubt that in a vast number of cases, the latter alternative will be chosen. Unless the condition accepted by the janmis is acted upon in the pattas issued at the settlement, the settlement will not be conducted from the beginning on the lines laid down by Government.

11. My views and the reasons for them are expressed in the following extract from paragraph 4 of my letter, dated 6th February 1892, to the Deputy Superintendent, No. V Party, Madras Survey:—"This course by necessitating the cancellation of pattas issued at settlement and the issue of new pattas will involve considerable labour, loss of time, and, consequently, expense. It may safely be anticipated that janmis will in many cases elect to have pattas issued in the names of their tenants. In these cases, therefore, it would inevitably lead to confusion if, at the settlement, a single patta were issued for a survey field comprising more than one individual tenancy and to avoid this, a separate patta must be granted to each tenant. This, however, cannot be done unless the sub-divisions are made before final settlement and the modification I propose is that sub-divisions should be effected by the menons while the settlement is in progress. The menons will, of course, be guided in this work by the entries in the Survey F. Book."

12. With regard to paragraph 4 of Mr. Stuart's letter, dated 20th February 1892, I submit that if Desamwar accounts are to be prepared by the subordinate Revenue officials in the manner suggested therein, an additional staff will be necessary. Hitherto, the land registers showing the name of the known or reputed janmi have been prepared by the Survey Department with the assistance of the subordinate Revenue officials and no good reason is shown for the proposed innovation. The case referred to by Mr. Stuart himself, in which a single sub-division of a survey field contains "no less than three separate janmis' properties" proves that information of the nature required by Mr. Stuart is already available without the elaborate system which Mr. Stuart advocates and which would practically tend to relieve the Settlement-officer of legitimate responsibility. The facts that, in consequence of an "unfortunate" departmental order, advantage has not been taken of the information available and that "much revision work" will have to be "done in the desams already supposed to have been surveyed for settlement purposes" are matters for adjustment between Mr. Stuart and the Survey Department. Of any departmental order, I have, of course, no knowledge, but the practice of clubbing the properties of various janmis in one and the same survey field has never been authorised by the Board and the Government. On the other hand, the orders I have pointed out in paragraphs 7 to 14 of my letter to the Board, Reference on C. No. 884-R. of 1892, dated 4th instant, prove that in the case of Wynaad, the declared intention of the Board and Government was that separate janmam properties should be separately defined and the necessity for this system in respect of Wynaad is equally present in respect of the other taluks of Malabar. But Mr. Stuart has already shown that in his settlement of Wynaad, the orders of the Board and Government were deliberately neglected and now shows that this disregard of express instructions has been studiously maintained in every other taluk hitherto dealt with for purposes of survey and settlement. At least a reference on the point ignored. The result of disobedience of orders actually issued with regard to Wynaad and of constituting that disobedience into a rule for the rest of the district is that a revision of survey and a revision of settlement, with all their attendant expense and delay, are necessary in every taluk of Malabar, which, to use Mr. Stuart's own phrase, is "supposed" to have been surveyed or both surveyed and settled.

ENCLOSURE No. 1.

From H. O'C. CARDOZO, Esq., Superintendent, Madras Survey, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture (through the Collector of Malabar), dated Calicut, 1st March 1892, No. 85-R.

I have the honour to forward herewith a letter, No. 2318, dated Coimbatore, 20th February 1892, from Mr. Castlestuart Stuart, Settlement-officer, Malabar and Canara, which that officer submits through myself and the Acting Collector of Malabar.

Reference.—Proceedings, Revenue Board, confidential, Revenue Settlement, Land Records and Agriculture, No. 1477, dated 10th February 1892, forwarding for remarks extract from letter from the Collector of Malabar regarding the changes necessary in consequence of G.O., No. 1152, Revenue, dated 3rd December 1891.

2. I also submit for approval a draft of proposed rules for demarcation which I have drawn up mainly in accordance with Mr. Stuart's suggestions. I propose to fix the limit of the area of survey fields in garden lands at 12 acres instead of 10 acres as suggested by Mr. Stuart, 12 acres being, I understand, the limit approved by the Collector.

3. These proposed rules would apply only to desams, the survey of which is undertaken by the Madras Revenue Survey Department. The desams mentioned by the Collector in paragraph 3 of his report to the Board, dated 4th February 1892, as containing large tracts of forest will be surveyed as directed in G.O., No. 602, dated 20th July 1886, by the Forest Survey Party of the Survey of India which is now working in the Madras Presidency.

4. With regard to paragraph 7 of my proposed rules, my object is to secure not only speedy and cheap survey and settlement, but also the earliest possible introduction of the revised rates of assessment and thereby prevent serious loss of prospective revenue. With this end in view I would again urge the desirability of simultaneous classification and survey already advocated in recent letters to the Board.

ENCLOSURE No. 2.

Malabar District—Proposed Rules for Demarcation.

Demarcation of properties.—The following boundaries must be demarcated with stone, surveyed and mapped:—

- I. Desam boundaries.
- II. Janmam boundaries.
- III. The boundaries of permanently alienated tenancies held on registered leases.

2. Division of properties into survey fields of convenient size.—The properties so defined must be further divided into survey fields (which are demarcated with stone, measured and mapped) in order to separate the following kinds of land with limit of area mentioned:—

	ACRES.
1. Wet cultivation, single crop	6
2. Do. double crop	6
3. Dry cultivation	12
4. Garden cultivation	12
5. Waste land, no limit. Janmams need not be sub-divided.	

3. Survey fields to contain one or more tenancies.—Each survey field must contain the whole of one or more tenancies of the same kind of land, i.e., a survey field boundary may enclose, but must not divide land of either of the five kinds mentioned in paragraph 2, held by one tenant.

4. Demarcation of survey fields.—To economize expenditure of stones, boundaries of survey fields which do not define properties may be marked with a stone at each point of junction of three or four fields, other bends on the field boundary being left unmarked although they are to be carefully surveyed and shown on the map. This will be done by measuring the straight line between two junction stones and taking offsets to the intermediate bends which are not marked with stones.

5. Sub-divisions to be measured but not demarcated.—The survey fields formed as directed above must be further sub-divided in order to separate from cultivated or assessed land unculturable areas which in other districts would be registered as poramboke, e.g., masses of sheet rock, roads, tanks, streams, &c., which are not assessable. These sub-divisions will each bear a separate number and will be measured and mapped and the area of each will be shown separately in the survey and settlement register, but the sub-division boundaries will not be demarcated with stone.

6. Tenancies in Government janmams to be measured as sub-divisions.—In the case of Government janmam lands, sub-division will also be necessary in order to show the limits and area of the land held by each tenant.

7. *Tenancies in private janmams to be left for measurement by the menon after settlement.*—Sub-division of private janmam lands for the purpose of defining tenancies need not be made during the survey and settlement. It can be done at any time after settlement, should the janmi desire it, by the menon under such supervision as may be found necessary in the same way as survey fields are sub-divided after settlement in other districts.

ENCLOSURE No. 3.

From A. E. C. STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, Madras (through (1) the Superintendent of Revenue Survey, Madras, and (2) the Acting Collector of Malabar, Calicut), dated Coimbatore, 20th February 1892, No. 2318.

With reference to paragraph 2 (II) of Board's Proceedings (Revenue Settlement, Land Records and Agriculture), dated 9th January 1892, No. 17, I have the honour to state that in my opinion the most convenient minimum regulation size of a survey field in the case of private janmam lands occupied by tenants therein referred to would be 12 acres in *dry*, 6 acres in *wet* and 10 acres in *garden*, though, as observed by the Board in the Land Revenue Department—Board's Proceedings (Land Revenue), dated 9th January 1892, No. 17—this "need not be a hard-and-fast rule, but could be adaptable to the varying sizes of the tenancies or blocks into which the janmam estate might be sub-divided." Special care will have to be taken that not more than one janmi's property is included in any one survey field, and that no survey field contains more than one class of land, whether "*wet*," "*dry*" or "*garden*," into which all lands in Malabar (*vide* Board's Proceedings, Revenue Settlement, Land Records and Agriculture, dated 21st July 1888, No. 337) fall for settlement purposes.

2. *Unculturable areas in each survey field for each class of land, whether "wet," "dry" or "garden,"* should have distinctive sub-division numbers assigned to them. By unculturable areas I mean areas which in other districts would be registered as "*poramboke*," e.g., masses of sheet rock, areas under roads, tanks, streams, &c., which are not assessable.

3. In the case of wet lands in one survey field, the area of "*single-crop*" should be distinguished from that of "*double-crop*" land, where both kinds may occur in the same survey field. Separate sub-division numbers would in such cases have to be assigned.

4. To assist the survey officers in their demarcation work I am of opinion that, as Government has decided that the desam shall be taken as the future administrative unit, and as all the present revenue accounts are kept *amsamwar*, instructions should be issued directing the subordinate revenue officials to prepare complete *desamwar* accounts from their present *amsamwar* records, entering opposite each holding the name of the known or reputed janmi. These *desamwar* accounts should be signed and certified to be correct by the village officials, the Revenue Inspectors and the Tahsildars or Deputy Tahsildars concerned, so that responsibility may be fixed for incorrect information subsequently discovered. These certified *desamwar* records should be handed over first to the Survey officers and then to the Settlement Department along with the survey records for settlement purposes. The Local Revenue officials have the best means of knowing (or of ascertaining if they are ignorant) who are the janmis of the lands at present in occupation by the ryots. This information, which could be compiled simultaneously throughout the Malabar district, for, as Government has observed, "the janmi will be readily ascertainable probably for 90 per cent. of the land" by the subordinate Revenue establishments for each desam, would greatly facilitate survey operations. All Survey officers of the grade of Deputy Superintendent and Assistant Superintendent have powers under the Boundary Marks Acts XXVIII of 1860 and II of 1884, which they will have to exercise freely if they wish to avoid including in the same survey field more than one janmi's private property. They have not been exercising to any great extent their powers under these Acts for ascertaining the boundaries of janmi's lands in Malabar, as they were departmentally directed not to do so, and this unfortunate order must now lead to much revision work being done in the desams already supposed to have been surveyed for settlement purposes. There are several cases in which the same survey field contains more than one janmi's property, and all these will require to be further sub-divided, e.g., in desam No. 158, Kulikaliyad, Walawanad taluk, survey field No. 153, sub-division 3 contains no less than three separate janmis' properties. The occurrence of such mistakes in future will, now that Government has ordered the settlement to be conducted with the janmi, very seriously interfere with the progress of settlement work.

5. Besides private janmam lands, there are in Malabar Government janmam lands, already decided to be the property of the State by escheat or otherwise. Besides these there are a number of "*unsettled escheat lands*," which, at paragraph 5 of G.O., dated 3rd December 1891, No. 1152, Revenue, Government has ordered to be "registered as the janmam property of Government." To enable these lands to be separately surveyed, it will be necessary for the Survey officers, in the first instance, and subsequently the Settlement Department, to be provided

with *authentic certified lists* showing what these lands are and where they are situated. The Malabar Escheat department should therefore be instructed to furnish *desamwar* registers for the whole district, showing exactly (1) what has already been settled as Government escheat, and (2) what are still "*unsettled escheats*." This work has been going on for about a quarter of a century, I believe, and my own experience has been that it is almost impossible to obtain any adequate information on the subject which will demand the attention of the Board and Government. In the case of such Government janmam lands I presume the various tenants' holdings will have to be surveyed and the pattas issued to them as they are practically ordinary ryotwari holders under Government.

The above are some of the more important points which in my opinion will have to be considered in conducting any survey for settlement purposes in the Malabar district.

ENCLOSURE No. 4.

From J. W. F. DUMERGUE, Esq., Acting Collector, to the Deputy Superintendent, No. V Party, dated Calicut, 6th February 1892, Reference on C. No. 696-R.

With reference to your letter, No. 147-M., dated 30th January 1892, and to paragraph 5 of the Board's Proceedings, dated 9th January 1892, No. 17, and to paragraph 2 (II) of its Proceedings of the same number and date in the Settlement Department, I have the honour to state that in my opinion blocks of 12 acres for *dry* and 6 acres for *wet* lands will be a convenient standard size for survey fields in Malabar.

2. But the rule must be made subject to many exceptions. It is essential, in order to ensure the correct registration of all janmam titles ordered by Government, that each janmam "*estate*" be separately surveyed, demarcated and registered, and in a multitude of cases the janmam "*estates*" consist of only a few cents of land each. Other cases will arise in which, owing to the size of the janmam "*estates*," or to the area of tenants' holdings, a variation from the standard will be found advisable, but, on the whole, I do not consider that any size more convenient than the one suggested can be fixed.

3. In addition to the separate demarcation of janmam estates it is, I think, absolutely necessary that single and double crop lands should also be separately surveyed and demarcated.

4. In paragraph 3 of his letter, dated 25th January 1892, to you, the Superintendent suggests that the option allowed to the janmis of taking pattas issued to his tenants might be exercised without loss to Government after the completion of the settlement, the necessary sub-division measurements being made by the menons under such survey supervision as may be considered necessary. I would, however, submit that this course, by necessitating the cancellation of pattas issued at settlement and the issue of new pattas, will involve considerable labour, loss of time and consequently expense. It may safely be anticipated that janmis will in many cases elect to have pattas issued in the names of their tenants. In these cases, therefore, it would inevitably lead to confusion, if, at the settlement, a single patta were issued for a survey field comprising more than one individual tenancy and to avoid this, a separate patta must be granted to each tenant. This, however, cannot be done unless the subdivisions are made before final settlement and the modification, I propose, is that subdivisions should be effected by the menons while settlement is in progress. The menons will, of course, be guided in this work by the entries in the Survey Field Book.

5. In paragraph 3 of my letter to the Board, dated 4th February 1892, Reference on C. No. 171-P. of 1892, I have stated my opinion that all lands and not only the cultivable area should be surveyed and demarcated by the Survey Department. My reasons are that this course is absolutely necessary for the accurate registration of all janmam titles in the district and that this accuracy is also absolutely necessary with regard to the probabilities of lands now classed as uncultivable, being cultivated hereafter, with regard to the possibility of disputes concerning valuable forests which form a large portion of the uncultivable area and in order to prevent cultivation now carried on in the midst of forests escaping assessment.

Read—the following letter from J. W. F. DUMERGUE, Esq., Acting Collector of Malabar, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Calicut, 4th March 1892, Reference on C. No. 884-R. :—

With reference to the Board's Proceedings, No. 17, dated 9th January 1892, I have the honour to forward a draft notification regarding the revision of Settlement of Malabar-Wynad prepared by the Special Settlement-officer, Malabar and South Canara, and submitted with his letter No. 2282, dated 17th February 1892, which is also enclosed.

2. A draft notification on the same subject was submitted by me with my letter, Reference on C. No. 171-P. of 1892, dated 4th February 1892, to the Board in the Department of Land Revenue in accordance with paragraph 8 of its Proceedings, No. 17, dated 9th January 1892, and I submit that, as the settlement of the whole of the district is to be conducted on the same principle, only one notification should be published in such form and containing such particulars as may be approved of by the Board and Government.

3. It appears to me that the notification proposed by Mr. Stuart contains unnecessary legal technicalities which are already known to the persons capable of understanding them and which will not be understood by persons for whose benefit the proclamation is chiefly intended. These technicalities may, therefore, I think, be omitted with advantage.

4. On the other hand, Mr. Stuart points out in his covering letter that the survey of Wynaad will also have to be revised, as sub-divisions are necessary, but the revision and the lines on which survey is to be conducted are not alluded to in the draft notification, although these points are an important feature in the orders of Government.

5. In paragraph 5 of his covering letter Mr. Stuart recommends that his proposals in paragraph 5, clauses (G) and (H), of his draft notification to tax occupation, and not merely cultivation, be adopted. Mr. Stuart asserts that "The system of taxing cultivation only as heretofore was, after most careful deliberation, abolished by Government, and it was distinctly ordered that taxation in future was to be on occupation, as in all other settled districts." Mr. Stuart does not quote the order to which he refers, but, as I have pointed out in paragraph 6 of my letter to the Board in the Department of Land Revenue, Reference on C. No. 171-P. of 1892, dated 4th February 1892, the proposal now reiterated by Mr. Stuart has been definitely negatived by paragraph 3 of G.O., dated 22nd July 1886, No. 611, Revenue, and by paragraph 4 of G.O., dated 17th May 1888, No. 354. Mr. Stuart's assertions are shown by these orders to be incorrect.

6. The necessity for revising the survey of Wynaad before the revision of settlement has been pointed out in paragraph 8 of my letter to the Board to which I have already referred. The Board and Government will now probably be surprised to find from paragraph 4 of Mr. Stuart's letter that he agrees with me so far as the sub-divisions "in waste blocks and possibly in certain occupied survey fields also" are concerned. Mr. Stuart does not now allude to the sub-division of Government escheat lands, which have been surveyed and registered as part and parcel of private janmam lands, but in paragraph 14 of his letter No. 1800, dated 18th December 1891, to the Board, he has admitted the necessity for sub-division in these cases also. On this point I request that reference may be made to paragraphs 110 to 118 of my letter, dated 3rd March 1892, to the Board in the Department of Land Revenue.

7. Another subject, on which the opinions entertained by Mr. Stuart and myself are surprisingly harmonious is the registration of janmam titles. I must beg that the Board and Government will give particular attention to the fact that in paragraph 8 of my letter, dated 4th February 1892, Reference on C. No. 171-P. of 1892, and in paragraph 3 of section V and paragraph 8 of section VII of my report, dated 14th December 1891, I pointed out the uncertainty which exists at present and how private individuals who never claimed lands have been registered by Mr. Stuart as the janmis thereof. It is gratifying now to find that in paragraph 4 of his present letter Mr. Stuart virtually admits the correctness of my statements.

8. The excuse which Mr. Stuart now makes is contained in the following words: "I was expressly prohibited from making any enquiries to ascertain the real janmi of private janmam lands in respect of which the State was not interested. In the words of the Director (Mr. Wilson) quoted from the Proceedings above mentioned (i.e., No. 610, dated 2nd March 1885), 'the enquiry' was to be strictly from escheat to title, not from title to escheat. To justify an enquiry at all, there must be in the first instance established a reasonable presumption of escheat. Where that is established the person claiming janmam rights in respect of the escheat may justly be called on to prove his title. Where there is no such presumption, there must be no enquiry." Then

Mr. Stuart states that the recent orders of Government will "necessitate a summary enquiry in those cases where he was forbidden before to make any enquiry."

9. These assertions are perfectly true so far as the *escheat settlement* is concerned, but Mr. Stuart now seeks to efface the distinction which the Board and Government has steadfastly maintained between the *escheat settlement* and the *ordinary Revenue settlement* of Wynaad. I must therefore ask the Board and Government to consider some of the orders passed on the subject and to compare those orders with Mr. Stuart's assertions that he was prohibited from making enquiries to ascertain the real janmi of private janmam lands in respect of which the State was not interested.

10. In the first place Government declared in paragraph 4 of G.O., dated 22nd June 1859, No. 822, Revenue, that the object of the survey and investigation of tenures in Wynaad was to ascertain and record existing rights and to fix the boundaries of estates and so to give additional value to property.

11. This was followed by other orders relating to the *escheat settlement* and in G.O., dated 3rd June 1884, No. 703, Revenue, Government observed that the intention and object of demarcation and survey of Wynaad was that it should not extend to the final settlement of disputes as elsewhere, but that it should merely furnish materials for the Settlement-officer to work upon; that *the investigation of claims to areas to which individuals may assert rights was reserved for the Settlement officer* and that therefore any demarcation prior to settlement must be necessarily provisional and dependant on the final settlement of titles. At the same time it was ordered that in the Survey registers the names of the present occupants and of the janmis from or through whom they claim to hold should be entered.

12. Then in paragraph 5 of G.O., dated 17th September 1884, No. 1049, Revenue, Government directed that the land registers should show, not only assessment and occupancy, but also *janmam ownership when known or claimed* and that when there was no claim of escheat or of private janmam right in respect of occupied land, it should be entered as "Janmi unknown." Boundary disputes between individuals were to be decided in the course of the settlement, but in any other case of disputed janmam right, where there was no escheat claim, the Settlement-officer was not to attempt to decide the dispute, but was to enter the fact that the janmam is claimed by several parties named.

13. The next order is important, because it is contained in G.O., No. 328, Revenue, dated 17th March 1885, or after the date on which Mr. Stuart asserts that he was prohibited by the Director's proceedings from inquiring into private janmam claims. The Government concurred with Messrs. Wilson and Logan in the opinion that the enquiry should proceed from escheat to title and not from title to escheat, and it is remarkable that Mr. Stuart himself proposed in paragraph 16 (d) of his letter printed with the Government order "that the discovery of lands 'seeking janmis' be left to be made at the settlement, when the fact will be ascertained by summary oral enquiry and recorded in the registers." This proposal was, with others, supported by the Director, Mr. Wilson, yet Mr. Stuart says he was forbidden to make any enquiries unless there was evidence of escheat.

14. Finally, in paragraph 9 of its Proceedings, dated 13th October 1885, No. 2869, the Board proposed a form of Settlement register. Column 13 was intended to show "the name and address of the janmi, if any," and in paragraph 10 the Board expressed the opinion "that it is a matter of considerable importance that the janmi of each plot of land should be recorded so far as the Settlement-officer can ascertain the fact." In paragraph 13 of G.O., dated 22nd July 1886, No. 611, Revenue, the Government approved of the Board's form of Settlement register (with a slight alteration in column 7, not column 13), and necessarily therefore endorsed the Board's opinion regarding the registration of the janmi of each plot of land. No such registration would have been possible without some enquiry, and the orders I have already quoted show that the Board and Government, from the beginning, contemplated that the Settlement officer should, at the *ordinary settlement*, enquire summarily into private janmam claims. Hence the accuracy of Mr. Stuart's assertion that he was "forbidden" to enquire into these claims is destroyed by official records which are in Mr. Stuart's

possession. The question, therefore, is whether Mr. Stuart is not in reality trying to discount the displeasure which will probably be felt by Government on finding that the settlement of Wynaad is *not* complete, in spite of Mr. Stuart's declarations to the contrary, and that a revision, not only of settlement but also of survey, is necessary.

15. In conclusion, I must ask that this letter may be read with my letters, dated 14th December 1891, 4th February 1892 and 3rd March 1892, addressed to the Board in the Department of Land Revenue.

ENCLOSURE No. 1.

From A. E. CASTLESTUART STUART, Esq., Special Settlement-officer, Malabar and South Canara, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, Madras (through the Acting Collector of Malabar, Calicut), dated Coimbatore, 17th February 1892, No. 2282.

With reference to paragraph 3 of Board's Proceedings (Revenue Settlement, Land Records and Agriculture), dated 9th January 1892, No. 17, I have the honour to submit for the favour of early approval the draft notification therein referred to, so far as Malabar-Wynaad is concerned.

2. A similar draft notification has been submitted through the Collector of Nilgiris for Nilgiri-Wynaad.

3. As the settlement of Malabar-Wynaad has long since been introduced and as Government publicly guaranteed that it should remain in force for the usual period of thirty years, I respectfully submit that the action now ordered to be taken in accordance with G.O., dated 3rd December 1891, No. 1152, Revenue, should not be called a "re-settlement of the Wynaad taluks," which it is not, but a "revision of registration of private janman lands" in those tracts which it practically is and which alone it was apparently intended to be. Government has distinctly stated that the rates of assessment, classification, &c., already determined at the settlement will not be altered and there are extensive areas of Government janmam land the property of the State by escheat or otherwise which will in no way be affected by the recent orders and in respect of which no further action whatever is necessary.

4. What the orders of Government will render necessary in Malabar-Wynaad is the revision of registration of private janman lands which will involve—

(1) in the case of *occupied* private janman lands, where the pattas stand in the name of the occupants and not in that of the janmis, the alteration of the pattas, so that henceforth they may run in the names of the janmis or, if they so desire, in the names of the occupants expressly designated by them as their representatives. Where private janmam lands are occupied by the janmis themselves, and where the pattas already stand in the janmis' names no alteration will be necessary;

(2) in the case of *unoccupied* private janmam lands, forming waste blocks, a summary enquiry will be necessary to determine what private janmi has the best *prima facie* title to be registered as the proprietor. This inquiry will most probably necessitate a sub-division by survey of the existing waste blocks. It will be remembered that in Malabar-Wynaad (except in the case of a few Desams where the procedure adopted in Nilgiri-Wynaad was followed until it was expressly changed by the Proceedings of the Director of Revenue Settlement and Agriculture, No. 610, dated 2nd March 1885), the escheat enquiry proceeded from escheat to title. I was expressly prohibited from making any enquiries to ascertain the real janmi of private janmam lands in respect of which the State was not interested. In the words of the Director (Mr. Wilson) quoted from the Proceedings above mentioned "the enquiry" was to be "strictly from escheat to title, not from title to escheat. To justify an enquiry at all, there must be in the first instance established a reasonable presumption of escheat. Where that is established, the person claiming janmam rights in respect of the escheat may justly be called on to prove his title. Where there is no such presumption, there must be no enquiry." Consequently the recent orders of Government necessitating the registration of the "real owner" janmi will necessitate a summary enquiry in those cases where I was forbidden before to make any enquiry, and the results of this enquiry will probably necessitate various sub-divisions in waste blocks and possibly in certain occupied surveyed fields also if the occupant happens to have in one number lands held from more than one private janmi. It will be remembered that at the settlement we dealt with the *occupant*, regardless of the janmi, but now that the pattas in private janmam lands are to stand in the name of the janmi or of his designated representative, it will be necessary to ascertain what janmi has the best *prima facie* title to hold the patta or to designate his representative or to stand registered as the owner of unoccupied private waste. There will thus be a considerable amount of work to be done in Malabar-Wynaad, and I therefore trust that the draft notification may be approved at an early date.

This draft closely follows the Government Order on the subject, but attention is invited to paragraph 5, clauses (g) and (h), where the word "occupation" has been purposely substituted for "cultivation." The system of taxing *cultivation* only as heretofore was, after most careful deliberation, abolished by Government and it was distinctly ordered that taxation in future was to be on *occupation* as in all other settled districts. I hope the Board and Government will therefore allow these clauses to stand unaltered. Now that the grant of private janmam lands on darkhast by the Revenue authorities has been abolished, it is, I respectfully submit, necessary to point out to the janmi that when he grants his waste land to applicants, he should give prompt notice to the Revenue authorities, so that the new grants, which will, of course, be thus made with his knowledge and consent, may be formally recognized and brought to account, and to stipulate that where he fails to do so, any occupation that may be discovered must be dealt with as if it was without the janmi's knowledge or consent, when the procedure laid down by Government for such cases will be followed.

NOTICE.

It is hereby notified, for public information, that His Excellency the Right Honorable the Governor in Council has directed that the registration of private janmam lands in the Wynaad shall be revised.

2. It has long been the revenue practice of the district to issue pattas for private janmam holdings to the actual occupants who have hitherto been regarded as the "land-holders" for the purposes of the Revenue Recovery Act (II of 1864). This practice was continued at the regular Revenue Settlement of the Wynaad when the ordinary darkhast and "Razinama" system was formally introduced.

3. The registered pattadars of private janmam holdings are thus frequently not the janmis or real proprietors thereof, but, for the most part, persons holding, directly or indirectly, from the janmis. In some cases they are persons who have entered into occupation without the knowledge or consent of the janmis.

4. The High Court of Judicature, Madras, has recently decided that, in the case of private janmam lands, the janmi is legally entitled to be registered under Regulation XXVI of 1802, as the proprietor; that he alone can be treated as the "land-holder" under the Revenue Recovery Act (II of 1864); that the practice of dealing with the occupants of his lands (in cases where he is not in actual occupation himself) instead of with the janmi, for the purpose of assessment and realization of the land revenue, is anomalous; and that the practice of placing in occupation an applicant for waste lands, the property of a janmi, without giving the janmi the option of occupying such lands and paying the revenue thereon himself, is an unwarrantable extension of that anomalous practice. In short, the High Court has held that, in the case of private janmam lands, the Government must deal with the janmi or with his acknowledged representative both in assessing the revenue and in taking steps for its realization, and that all dealings with a third person who has not been put forward as his representative by the janmi, are absolutely void and of no effect.

5. With a view, therefore, to bring the public registers maintained under Regulation XXVI of 1802, and of which the pattas are the counterparts, into conformity with the requirements of the law as lately enunciated by the High Court; to safeguard the revenues of the State; and to place the janmis in that legal position (of titular dignity and fiscal responsibility) which the High Court has declared they should occupy, His Excellency the Right Honorable the Governor in Council has been pleased to direct—

(a) that every occupied field or block of waste land, being private janmam property, shall be registered as belonging to the janmi who owns it;

(b) that in the event of rival janmam claims to such lands being set up, the Special Settlement-officer shall hold a summary inquiry and register the person who, in his opinion, may appear to have the best *prima facie* title, the other claimants being referred to the Civil Courts;

(c) that the pattas for all occupied private janmam lands shall run in the name of the janmi, unless he refuses registry or desires that the occupant shall be registered as his representative, in both of which cases evidence of the fact shall be recorded;

(d) that in the event of a janmi refusing registry, the patta shall be issued in the name of such tenant as may appear to the Special Settlement-officer, on making a summary inquiry, to possess the best title to it;

(e) that such pattas for occupied private janmam holdings as may have been issued to persons other than the janmis thereof shall be cancelled and fresh pattas issued to the janmis concerned unless the latter record their desire that the pattas shall remain in the names of the present pattadars as their representatives;

(f) that the practice of granting private janmam waste lands on darkhast shall cease;

(g) that where such lands are occupied with the knowledge and consent of the janmi, it shall be his duty to give prompt intimation of the fact to the Revenue authorities with necessary

particulars as to the name of the occupant, and the name, situation and extent of the land occupied. A putta for the land will then be issued either to the janmi himself, or, should he so desire it, to the occupant designated by him as his representative;

(h) that where such lands are found to be occupied without the intimation above mentioned having been received, it must be assumed, for the protection of the public revenues, that the occupation was unauthorized by the janmi and that the occupant is a trespasser. In such cases it will be the duty of the Revenue authorities to promptly notify to the registered janmi the extent of the land found to be occupied and the amount of the Government dues payable thereon for the year. The registered janmi will thereupon become legally responsible to Government for the said dues. It will be for the janmi to take steps if he chooses to eject the trespasser and recover the Government dues together with such rent as he may demand. In recovering the Government dues in such cases, the crops on the land shall, in the first instance, be attached and the janmis' moveable and immoveable property shall not be proceeded against for a period of three months from the date of the notification to him, so that he may be enabled meantime to take the requisite steps for ejecting the trespasser. No patta for such unauthorized occupation will be issued unless the janmi desires it and the charges will last only as long as the occupation continues.

6. The registered pattadars of all private janmam lands who will, henceforth, be the janmis themselves, or such persons as they may have expressly designated as their representatives, will, as regards Government, be the responsible proprietors of the lands registered in their names until they pass from their possession by sale for arrears or in some other legal manner. They will continue liable for the public dues notwithstanding the transfer or disposal of any portion of their holdings, unless and until such transfer or disposal is formally registered in the land registers of the district. Transfers made without being so registered are not valid in the courts, the object of the legal registration being to fix the responsibility for the revenues of the State.

7. This revision of registration of private janmam lands in the Wynaad which has been ordered by Government to meet the requirements of the law as propounded by the High Court will be proceeded with by the Special Settlement-officer, Malabar and South Canara, with the least possible delay. It will in no way affect the revenue settlement recently introduced into that tract so far as the classification of lands, rates of assessment, settled demand, &c., are concerned. It will merely, by alteration of the names of pattadars in the case of private janmam holdings, place the janmis in that legal position which the High Court has decided they must hold. Existing rights will in no way be affected nor does the Government anticipate that the change of registry will make any change in fact in the payers of the land revenue in the district.

Resolution—dated 31st May 1892, No. 402.

With the first of the papers read above, the Collector of Malabar submits, with explanatory remarks, a draft proclamation in connection with the settlement of the district with the janmi as directed in G.O., No. 1152, dated 3rd December 1891; the second letter contains Mr. Stuart's observations on the same subject, and the third relates to the conduct of survey operations in conformity with the instructions of Government contained in paragraph 10 of the Government Order above quoted.

2. In the draft proclamation submitted by Mr. Dumergue, he has inserted a notice regarding the revision of settlement in Malabar-Wynaad, but Mr. Stuart points out that, as the settlement has already been carried out in that taluk, all that remains to be done, under present orders, is merely "a revision of registration of private janmam lands," that is, "the pattas already issued to occupants in accordance with the former orders of Government, in accordance with which the Wynaad settlement was conducted, should be revised so as to stand in the name of the janmis or their designated representatives and that private waste janmam blocks registered in the name of the real janmi so far as he can be discovered." Mr. Stuart thinks it "essential that the minds of the people of the Wynaad generally, and especially the large body of planters whose estates have been settled in a special manner under the orders of Government, should not be further disquieted by the suspicions that the settlement already completed there and which Government publicly guaranteed should remain in force for 30 years is now to be repudiated and that any re-settlement is in contemplation," and he accordingly suggests that the question of revision of the registration of private janmam lands in the Wynaad should be kept entirely distinct and should not be dealt with in any general proclamation relating to those taluks which remain to be

settled. The Board has carefully considered the objections raised by Mr. Stuart, but fails to see the necessity for issuing a separate proclamation regarding the revision to be carried out in the Wynaad taluk. The exact scope of the revision can be clearly defined in the general proclamation. The draft proclamation, as revised in this office, will be submitted for the approval of Government.

3. Regarding the rules drawn up by Mr. Cardozo for the conduct of survey operations, Mr. Dumergue raises certain objections, the most important of which relates to the exclusion of forest and hill tracts from the present survey. Mr. Cardozo's reason for excluding these tracts is that they will hereafter be dealt with by the Survey of India under paragraph 5 of G.O., No. 602, dated 20th July 1886, in which it has been decided that "the forest surveys required in Madura, Tinnevely, South Canara and Malabar will be undertaken by the Survey of India." Whether the work is done by the Madras Survey or the Survey of India, Mr. Dumergue states, and Mr. Stuart agrees with him, that it is necessary, before the settlement, to demarcate and survey the forest and hill tracts with reference to the janm estates to which they belong.

The detachment of the Survey of India now engaged in this Presidency has not yet commenced work in Malabar, and it seems most unlikely that it can survey all the tracts in question in time for the settlement, the preliminary operations connected with which are already far advanced in some of the taluks. Moreover, the Board believes that the operations of the Survey of India do not extend to the survey of janm boundaries, though probably they may include desam boundaries among other things. In any case, it is the duty of the Madras Survey to perform all the demarcation work required for the Survey of India, and, in the case of forest surveys, the demarcation should be made under its direct supervision—*vide* paragraph 3 of G.O., No. 602, dated 20th July 1886. The work thus imposed on the Madras Survey must necessarily include the settlement and demarcation of janm and desam boundaries if these are also required for the Survey of India, and the Board considers that it would be a great advantage if these operations, which sooner or later must devolve on the Madras Survey, are carried out at once, leaving the survey and mapping to be done by the Survey of India at its convenience. This will prevent all future disputes regarding the boundaries, though the areas of the tracts cannot be ascertained and maps prepared until the survey.

4. If, however, the Survey of India is not expected to survey the janm boundaries, the Board thinks that the whole work had better be done by the Madras Survey. In fact, this seems to be the preferable course from every point of view. The circumstances of Malabar differ widely from those of the eastern districts where forest and hill tracts are mostly the undisputed property of Government. But in Malabar, the forests and hills are for the most part included in private estates, which are not unfrequently interspersed with Government janm lands, and unless the boundaries of the several estates are settled, demarcated, surveyed and mapped now, they will hereafter prove an ever-recurring source of dispute, and whenever portions of such forest lands are broken up and brought under cultivation, it will be impossible to fix the responsibility for payment of State revenue without first settling the boundaries of all the adjoining estates. It can be easily imagined that cases of this kind will be of such frequent occurrence that the ordinary Revenue establishment will hardly be able to cope with them. Even at present, the settlement of janm limits in forest and hill tracts will doubtless involve a very large number of disputes, especially where private janm lands adjoin Government janm lands. This will render necessary frequent recourse to the provisions of the Madras Act XXVIII of 1860, with the working of which the Madras Survey is undoubtedly better acquainted than the Survey of India.

5. All that need now be done with regard to the tracts in question is the determination and record of the boundaries and areas of the portions belonging to the several janm estates, and a detailed survey of them as in the case of ordinary dry waste which Mr. Stuart seems to suggest will not be necessary at present. It is true that portions of these lands may be taken up for cultivation in future, but this can only happen gradually, and when it does, each plot occupied can be easily measured up and subdivided by the menon and the Revenue Inspector. It seems unnecessary

now to incur the expense, trouble and delay of subdividing and assessing all these lands. The Board does not think that it was the intention of Government when deciding that "the cultivable waste should be blocked out and assessed as in other districts," that lands included in forest and hill tracts should also be assessed at the same time, though there can be no objection to such portions as may be fit for cultivation being separately blocked out and assessed.

6. Mr. Dumergue's second objection to the rules is that they aim at a threefold classification of the land into wet, garden and dry as proposed by Mr. Stuart and accepted by the Board in its Proceedings, dated 21st July 1888, No. 357. Mr. Dumergue considers it quite sufficient if, as in all other districts, the lands are divided into two classes only, viz., wet and dry, and the reasons assigned by him are that in the case of Wynaad the Government decided that there should be only two such divisions, and that there is no reason why the so-called garden lands of Malabar, which are merely cocoanut and pepper plantations, should not be included in dry just in the same way as the "estates" or cardamom plantations of Wynaad have been. He further adds that "dry lands are constantly being converted into so-called garden lands," and that it would minimize future chances of discrepancy between the actual description of lands and the settlement register if only the two main divisions of the lands under dry and wet are adopted. The Board observes, however, that, as

remarked by Government,* garden cultivation, properly so-called, is practically absent in the Wynaad, while in the rest of Malabar it forms an important item, the settlement of which will involve "difficulty, especially demanding novel methods." The settlement scheme report is the proper place for the discussion, in all its bearings, of the question as to the proper method of assessing these garden lands, and pending this decision the Board considers that the survey should follow the course indicated in Board's Proceedings, No. 357, dated 21st July 1888, and divide the lands into dry, wet and garden.

7. With regard to the question asked by Government as to what should be fixed as the minimum area up to which minor sub-tenancies under the same janmi may be clubbed for purposes of field survey, Messrs. Dumergue, Cardozo and Stuart all agree, and the Board concurs with them, that it should be fixed at 6 acres for wet and 12 acres for dry. As regards garden lands, Mr. Stuart proposes 10 and Mr. Cardozo 12 acres as the minimum size of a field. The Board would adopt the latter limit.

8. The limits above referred to should not, however, form a hard-and-fast rule but only the standards towards which the field subdivision should tend. In many cases the entire janm property consists of only a few cents, and in such cases no attempt should be made to secure any fixed or minimum size by mixing up lands belonging to more than one janmi. It is observed that this precaution has not been taken in respect of the survey work already done in the district, though, as pointed out by Mr. Dumergue, it had been distinctly enjoined in the case of Wynaad, and the consequence is that to meet the requirements of the present settlement, the survey in those taluks will have to be revised.

9. The other precautions which the Board considers necessary are—(1) that occupied and unoccupied lands shall not be included in the same field; (2) that each field shall comprise wholly either wet or garden or dry lands; (3) that single crop that, subject to the minimum limit of 6 acres for wet and 12 for dry or garden lands, portions of two or more different sub-tenancies shall not be included in the same field though two or more entire sub-tenancies may be so included; and (5) that poramboke lands included in survey fields shall be separately measured and denoted by a separate number or sub-number; and, to guard against future encroachments, they shall also be shown in the desam maps wherever possible. Most of these matters are provided for in Mr. Cardozo's rules.

10. With regard to Mr. Cardozo's rule 6, the Board agrees with Mr. Dumergue that the words "whose position . . . in other districts" are unnecessary and should be omitted. The Government janm lands on which janmabhogam is

leviable over and above the assessment stand on a different footing from ordinary patta lands in other districts. The rule that the subdivisions of Government janm lands should show the limits and area of each tenant holding should also be extended to unsettled escheats which the Government has, in paragraph 5 of the order under reference, ordered to be registered as Government janm lands. It will, of course, be the duty of the Malabar Escheats Department to prepare and furnish the Survey Department with correct lists showing what estates have been already settled as Government janm property and what are still unsettled.

11. Referring to Mr. Dumergue's observations regarding the necessity for a recourse to Act VIII of 1865 or to the civil courts for the collection of the janmabhogam on Government janmi lands, the Board observes that the question was fully discussed in G.O., No. 529, dated 24th June 1889, and the Government came to the conclusion that it would be necessary to have recourse to special legislation for the recovery of this charge. It was considered inexpedient, however, to resort to this course until some practical difficulties were found to exist in its collection. Under the altered arrangements now to be carried out by which the settlement is to be made with the janmis, it would save unnecessary complication if the occupants (pattadars) of Government janmi lands are induced to accept a redemption of the janmabhogam payable on such lands on the terms prescribed in G.O., dated 2nd August 1889, No. 659.

12. Referring to rule 7 of Mr. Cardozo's rules, Mr. Dumergue points out that serious difficulties will arise if subdivisions of tenancies in private janmams are left to be done by the menons after settlement. There will be many cases, he states, in which the janmis will be willing to have the lands registered in the names of their tenants, and in all such cases it will obviously be necessary to divide each tenancy and to determine its area and assessment before the settlement can be concluded with the janmi or his representative. The Board agrees with the Collector. It will probably be impossible to foresee such cases at the time of the survey, but it should be the duty of the Settlement-officer, before issuing pattas, to get the necessary measurements of subdivisions made by the menons after causing them to be trained in survey if necessary.

13. As the revenue accounts of the district are now kept by amsams, Mr. Stuart considers that it will greatly facilitate survey and settlement work if the Revenue Department is made to compile from the amsam records desamwar accounts showing also the name of the known or reputed janmi against each holding with a certificate under the signatures of the Village and Taluk officers. Mr. Dumergue, on the other hand, states that the Revenue Department could not undertake this work without extra establishment, and points out that the Survey Department have been hitherto showing the names of known or reputed janmis in the land registers and that the change of system advocated by Mr. Stuart will tend to relieve the Settlement-officer of legitimate responsibility. The Board is of opinion that a separate detailed compilation of the revenue accounts according to desams is unnecessary, and that the land registers can be easily prepared by the Surveyors with the aid of the menons as the lands comprised under each desam are surveyed. Abstract statements showing the total area, revenue, &c., for each desam should, of course, be prepared by the menons for purposes of the settlement scheme. The names of known or reputed janmis may also be noted in the land registers by local inquiry; but it will be the duty of the Settlement Department to verify the entries by subsequent inquiry and to settle all disputes in the manner prescribed in the Government Order under reference before issuing pattas.

14. The foregoing paragraphs dispose of all the questions raised in connection with the survey of the district, and appendix A to these Proceedings gives the modified rules on the subject prepared by the Board with reference to the above remarks.

15. Mr. Dumergue considers that the settlement register should show in separate columns the names of the janmi and the actual pattadar, because no janmi, he says, will ever consent to the registry of his janmam land as the janmam land of his tenant, though he may consent to the registry of his tenant as the pattadar. Mr. Stuart,

while concurring with him, points out that the register now in use fully meets what Mr. Dumergue considers necessary. The Board observes, however, that under the settlement which will now be carried out with the janmi or with his recognized representative, the janmi as distinguished from the pattadar will have no separate existence, as the pattadar, whether janmi or not, will alone be the recognized registered holder of the lands and the person solely responsible for the payment of Government dues, so that whenever a janmi wishes any of his lands to be registered in the name of another person it will be on the distinct understanding that for purposes of revenue he will be altogether superseded by his nominee notwithstanding any private arrangement between the parties. The retention of these two separate columns under the altered settlement would be somewhat misleading, and the Board would, therefore, prescribe in their stead a single column to show the name of the registered janmi or his recognized representative. Where the janmi desires that the tenant should be registered as the pattadar, the latter will be entered as the representative of such and such janmi.

16. The only question which remains to be disposed of is that raised in para. 6 of Mr. Dumergue's letter, dated 4th February 1892, viz., whether the assessment should be levied "on all lands or only on lands actually occupied." Mr. Dumergue rightly considers that it will be in accordance with G.Os., No. 611, dated 22nd July 1886, paragraph 3, and No. 354, dated 17th May 1888, paragraph 4, to levy the assessment on occupied lands only, and Mr. Stuart also expresses a similar opinion. He would assess all culturable lands whether occupied or unoccupied, but would levy assessment only on such of them as may be occupied for purposes of cultivation whether by the janmi himself or his tenant. The draft proclamation is sufficiently clear on the point and leaves no room for any misapprehension on the part of the janmis.

17. The Board thinks it unnecessary to notice here Mr. Dumergue's remarks regarding the defects and errors alleged to exist in the Wynaad settlement registers.

(True Copies and Extract.)

(Signed) P. RAJARATNA MUDALIAR,
Secretary.

To the Secretary to Government, Revenue Department,
Copy to the Special Settlement-officer, Malabar and South Canara.
" " Collector of Malabar.
" " Superintendent, Madras Survey.
" " Commissioners of Land Revenue.

APPENDIX A.

RULES for the conduct of Survey in Malabar.

1. The desam will be the unit of survey. The boundaries of each desam should be demarcated with stone, surveyed and mapped, such boundaries enclosing not merely the cultivable lands but also forests and hill tracts.
2. The desam should then be divided into its constituent janmam estates, the boundaries of each of which should be likewise determined, demarcated with stone, surveyed and mapped, so as to embrace also forest and hill tracts.
3. The lands composing each janmam property should be sub-divided into survey fields, which should also be demarcated with stone, surveyed and mapped. In the case of Government janmam lands and unsettled escheats, each sub-division or survey field should not include the lands of more than one tenancy; but such minute sub-division is not necessary in the case of private janmam lands, and any sub-divisions which may be found necessary for purposes of settlement will be made by the menon under the orders of the Settlement officers. For the present, these private janmam lands may be divided into fields, consisting of two or more entire tenancies, subject to the minimum size of 6 acres for wet and 12 acres for dry or garden lands. Care should be taken, however, not to throw into the same survey field portions of two or more tenancies.

4. In respect of waste, forest and hill tracts, the survey fields may be demarcated into convenient blocks without any limit of area.

5. In the formation of survey fields the following precautions should be observed:—

- (a) That occupied and unoccupied lands are not included in the same survey field.
- (b) That each field comprises wholly either wet or garden or dry lands.
- (c) That single crop wet lands are distinguished, measured and numbered separately from double crop lands.
- (d) That poramboke lands, such as roads, tanks, streams, rocks, &c., included in survey fields other than forest and hill blocks are separately measured, numbered and mapped.

6. To economize expenditure of stones, boundaries of survey fields which do not define properties may be marked with a stone at each point of junction of three or four fields, other bends on the field boundary being left unmarked although they are to be carefully surveyed and shown on the map. This will be done by measuring the straight line between two junction stones and taking offsets to the intermediate bends which are not marked with stones.

APPENDIX B.

PROCLAMATION.

It is hereby notified for general information that His Excellency the Right Honorable the Governor in Council has, after mature deliberation, decided that the Revenue Settlement of Malabar shall be conducted with the janmis in the case of all private janmam lands.

2. It has long been the revenue practice of the district to issue pattas for private janmam holdings to the actual occupants who have hitherto been regarded as the "land-holders" for the purposes of the Revenue Recovery Act (II of 1864).

3. The registered pattadars of private janmam holdings are thus frequently not the janmis or real proprietors thereof, but for the most part persons holding, directly or indirectly, from the janmis. In some cases they are persons who have entered into occupation without the knowledge or consent of the janmis.

4. The High Court of the Judicature, Madras, has recently decided that in the case of private janmam lands in Malabar (including the Wynaad taluk) the janmi alone is legally entitled to be registered under Regulation XXVI of 1802 as the proprietor; that he alone can be treated as the "land-holder" under the Revenue Recovery Act (II of 1864); that the practice of dealing with the occupants of his lands (in cases where he is not in actual occupation himself), instead of with the janmi, for the purpose of assessment and realization of the land revenue is anomalous, and that the practice of placing in occupation an applicant for waste lands—the property of a janmi—without giving the janmi the option of occupying such lands and paying the revenue thereon himself is an unwarrantable extension of that anomalous practice. In short, the High Court has held that, in the case of private janmam lands, the Government must deal with the janmi or with his acknowledged representative both in assessing the revenue and in taking steps for its realization, and that all dealings with a third person who has not been put forward as his representative by the janmi are void and of no effect.

5. With a view, therefore, to bring the public registers maintained under Regulation XXVI of 1802, of which the pattas are the counterparts into conformity with the requirements of the law as enunciated by the High Court, to safeguard the revenues of the State, and to place the janmis in that legal position which the High Court has declared they should occupy, His Excellency the Right Honorable the Governor in Council has been pleased to direct—

(a) that with a view to the accurate registration of janmam titles, every individual janmam "estate," of whatever extent, in a desam—which will in future be taken as the administrative unit—shall be separately demarcated, surveyed and registered;

(b) that all lands comprised in each "estate," whether "wet," "dry" or "garden," occupied or unoccupied, shall be surveyed and demarcated into fields of a size suitable to circumstances;

(c) that the name of the janmi of each such estate shall be ascertained by summary inquiry and shall be entered in the appropriate column of the Survey and Settlement Register subject to the ultimate decision of the Civil Courts in cases of dispute;

(d) that rates of assessment shall be fixed for all culturable lands, but shall be levied only on such lands as now are or may hereafter be brought under occupation;

(e) that unculturable lands shall not be assessed. Should any of them hereafter be reclaimed and occupied, the rates of assessment imposed on neighbouring land of similar quality shall be levied;

(f) that the settlement shall be based on a field assessment, which will be a great convenience not only to the Government in recovering the revenue, but also to the people in adjusting its incidence among themselves;

(g) that pattas for all occupied private janmam lands shall run in the name of the janmi, unless he refuses registry or desires that the occupant shall be registered as his representative, in both of which cases evidence of the fact shall be recorded;

(h) that in the event of a janmi refusing registry, or neglecting to signify his assent to the issue of patta in the name of his tenant and continuing to allow the land to remain under occupation for three months after notice given on behalf of Government, the patta shall be issued in the name of such tenant as may appear on summary inquiry to possess the best title to it;

(i) that the practice of granting private janmam waste lands on darkhast without reference to the janmi shall cease;

(j) that where such lands are occupied with the knowledge and consent of the janmi, it shall be his duty to give prompt intimation of the fact to the revenue authorities with necessary particulars as to the name of the occupant, and the name, situation and extent of the land occupied. A patta for the land will then be issued to the janmi himself or should he so desire it, to the occupant designated by him as his representative;

(k) that where such lands are found to be occupied without the intimation above mentioned having been received, it must be assumed for the protection of the public revenues that the occupation was unauthorized by the janmi and that the occupant is a trespasser. In such cases it will be the duty of the revenue authorities to promptly notify to the registered janmi the extent of the land found to be occupied and the amount of the Government dues payable thereon for the year. The registered janmi will thereupon become legally responsible to Government for the said dues, and it will be for him to take steps, if he chooses, to eject the trespasser, and recover the Government dues together with such rent as he may lawfully demand;

(l) that in recovering the Government dues in such cases, the crops on the land shall, in the first instance, be attached and the janmi's moveable and immoveable property shall not be proceeded against for a period of three months from the date of the notification to him, so that he may be enabled meantime to take the requisite steps for ejecting the trespasser. No patta for such unauthorized occupation shall be issued unless the janmi desires it and the charge will last only as long as the occupation continues;

(m) that there shall be a separate series of pattas for each desam. Lands belonging to the same janmi and situated in the same desam and held by the same occupant will be entered in the same patta, whether the patta runs in the name of the janmi or when the occupant is a different person from the janmi, in the name of the occupant designated by the janmi as his representative.

6. The registered pattadars of all private janman lands who will henceforth be the janmis themselves, or such persons as they may have expressly designated as their representatives, will, as regards Government, be the responsible proprietors of the land registered in their names, until they pass from their possession by sale for arrears or in some other legal manner. They will continue liable for the public dues, notwithstanding the transfer or disposal of any portion of their holdings, unless and until such transfer or disposal is formally registered in the land registers of the district. Transfers made without being so registered are not valid in the courts, the object of the legal registration being to fix the responsibility for the revenues of the State.

7. The registration of the janmi as the "land-holder," being compulsory at law, settlement with him or his acknowledged representative is the only legal course. At the same time Government desires it to be widely known and understood that the principle of settlement which has now been finally adopted does not in any way affect the land tenures obtaining in the district; that it does not in any way disturb the prevailing relations between landlords and tenants, and that it does not in any way prejudice the proprietary rights of landowners. On the one hand the clear and unequivocal registration of all janman titles will facilitate the realization, in a manner recognized by law, of the revenue to which Government is entitled. On the other, the adjustment of terms between landlords and tenants and the modifications thereof inevitable on the introduction of the settlement will as heretofore remain matters of contract, but uncertainty of proprietary right and consequent grounds for litigation will be minimized, the security of land-holders and tenants alike being thereby promoted.

8. In the Wynaad taluk of Malabar, the settlement already made with the tenants in accordance with the practice previously existing will now be revised with reference to the principles laid down above, and the pattas issued for occupied private janmam holdings in the names of persons other than the janmis thereof will be cancelled, and fresh pattas issued to the janmis concerned, unless the latter record their desire that the pattas shall remain in the names of the present pattadars as their representatives.

This revision of registration of private janmi land in the Wynaad will in no way affect the settlement recently introduced into that tract, so far as classification of land, the rates of assessment, settled demand, &c., are concerned.

Read—also the following Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 11th November 1892, No. 733:—

Read—again Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 31st May 1892, No. 402.

ABSTRACT—Submitting, for the approval of Government, draft proclamation regarding the settlement of the Malabar district with janmis instead of with tenants and the conduct of the survey operations as called for in G.O., No. 1152, dated 3rd December 1891.

Read—the following letter from H. O'C. CARDOZO, Esq., Superintendent, Madras Survey, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Madras, 29th October 1892, No. 412-R:—

I have the honour to submit for your consideration the following proposed amendment of the draft proclamation regarding settlement of Malabar, the necessity for which was discussed with the Collector during our recent visit to Calicut:—

Reference.—Proceedings, Revenue Board (Revenue Settlement, Land Records, &c.), No. 402, dated 31st May 1892, submitting to Government draft proclamation for settlement, and rules for the conduct of survey in Malabar.

Paragraph 5 of proclamation, clause A, omit the word "demarcated." Clause D, add the words "or cultivation."

2. Should this amendment be approved, the proposed rules for the conduct of survey will also require change. It will not be necessary to demarcate the boundaries of all janmam estates, many of which are found to consist of very small detached portions situated in different parts of the village. It is proposed to demarcate separately with stone, only such estates or detached portions of estates as exceed 6 acres in wet land and 12 acres in dry or garden land.

3. Each such estate or portion of an estate, however small, will form a separate sub-division of a survey field and will be measured, mapped and registered under a separate sub-number. These sub-divisions will be clubbed to form survey fields in the same way as is done with patta holdings in other districts.

4. By this arrangement, the janmis who supply the stones will be saved much unnecessary expense and the cost to Government of the survey will also be lessened as the surveyors will not be delayed by having to put up the large number of stones which would be necessary if each estate, however small, were separately demarcated.

5. It is also proposed to omit the rule directing surveyors to separate single crop from double crop wet land as it is found in practice more convenient to leave this separation to be made, if necessary, by the Settlement Department.

6. I enclose a copy of the draft rules thus amended. It should be remembered that these rules apply only to desams not excluded from ordinary cadastral survey. In every district containing large tracts of mountain and forest, there are some villages, the climate of which is so unhealthy, the nature of the country so difficult for survey, and the land revenue so insignificant that it has been considered not worth while to risk the lives of surveyors and incur heavy public expenditure by extending to them the operations of cadastral survey. See Proceedings, Revenue Board, and Government Orders as per margin. On this subject a separate report is submitted with reference to

Proceedings, Revenue Board, No. 143, dated 23rd May 1887.
G.O., No. 3352, dated 10th June 1887.
Proceedings, Revenue Board, No. 382, dated 25th July 1887.
G.O., No. 4759, dated 15th August 1887.

Proceedings, Revenue Board (Revenue Settlement, &c.), No. 6645, dated 11th August 1892.

APPENDIX A.

(REVISED Rules for the conduct of cadastral survey in Malabar.)

The desam will be the unit of survey. The boundaries of each desam should be demarcated with stone, surveyed and mapped, such boundaries enclosing not merely the cultivated or cultivable lands, but also forests and hill tracts.

2. The desam should then be divided into its constituent janmam estates, the boundaries of each of which should be determined, surveyed and mapped. The boundary of each janmam estate or detached portion of an estate which exceeds 6 acres in wet land and 12 acres in dry or garden land should also be demarcated with stone. The boundaries of smaller estates or detached portions of estates need not be demarcated with stone, but should be clubbed to form survey fields of about 6 acres in wet and 12 acres in dry or garden lands.

3. The lands composing each janmam property should be sub-divided into survey fields of about 6 acres in wet land and 12 acres in dry or garden land. Each survey field should be demarcated with stone, measured, mapped and registered and should consist of one or more entire tenancies. Survey fields which contain more than one tenancy held on patta from the Collector should be further sub-divided into survey sub-divisions each defining the limits of one such tenancy. Survey sub-divisions will be separately measured, mapped and registered, but not demarcated with stone. Tenancies which are not held on patta need not be measured by the surveyors. If these measurements should at any time be found necessary they can be measured by the menons hereafter.

4. Waste lands, forest and hill tracts may be demarcated into survey fields without any limit of area.

5. In the formation of survey fields, the following precautions should be observed:—

(a) Permanently-cultivated lands should not, as a rule, be included in the same survey field with waste or shifting cultivation.

(b) Each field should as a rule comprise wholly either wet or garden or dry land.

(c) The exception to the above two rules will be when such roads, streams, small tanks, rocks, &c., as it would be manifestly waste of money to demarcate separately with stone, pass through cultivated survey fields. In each such case the roads, &c., should be treated as survey sub-divisions and measured, mapped and registered separately, although not separately demarcated. But where roads, &c., pass through uncultivated survey fields, such as forests and hill blocks, separate sub-division measurement will not be necessary.

6. To economise expenditure of stones, boundaries of survey fields which do not define janmam estates may be marked with a stone at each point of junction of 3 or 4 fields, other bends on the field boundary being left unmarked although they are to be carefully surveyed and shown on the map. This will be done by measuring the straight line between two junction stones and taking offsets to the intermediate bends which are not marked with stones.

Resolution—dated 11th November 1892, No. 733.

The revised rules for the conduct of survey operations in the Malabar district proposed by the Superintendent of Revenue Survey will be submitted to Government with the request that they may be substituted for the rules printed in Appendix A to Board's Proceedings, dated 31st May 1892, No. 402.

2. During his recent inspection of the Palghat, Walawad and Calicut taluks, the Commissioner had an opportunity of discussing the question with the Collector, the Special Settlement-officer and Mr. Cardozo, and it was generally agreed that it was unnecessary to demarcate with stone the boundaries of every janmam estate, as many of the estates are found to consist of very small portions, often a few cents, scattered over the village. To facilitate the work of the Survey Department and to save unnecessary and often very serious expense to the janmis, it was considered sufficient to demarcate separately with stone such estates or detached portions of estates as exceed six acres in wet and twelve acres in dry or garden, smaller estates or portions of estates being clubbed to form survey fields of about six acres in wet and twelve in dry or garden, and separate tenancies held on patta and included in one survey field being sub-divided into separate survey sub-divisions. It was also considered unnecessary to require Survey officers to distinguish single from double crop wet land, as the work could, without inconvenience, be left to be done by the Settlement Department.

3. Opportunity has been taken, while modifying the rules, to lay down exactly what sub-divisions the Survey Department shall be required to measure. The rules, as originally proposed, left this question doubtful in the case of private janmam lands

and would perhaps have thrown on the Settlement Department a large amount of work which properly appertains to, and can be more satisfactorily carried out by, the Survey Department.

4. The revised rules now submitted for the approval of Government provide for the modifications mentioned above.

5. If the revised rules are approved, it will be necessary to modify clause (a) of paragraph 5 of the draft proclamation by the omission of the word "demarcated" in the third line.

(True Copies and Extract.)

(Signed) P. RAJARATNA MUDALIAR,
Secretary.

To the Secretary to Government, Revenue Department.

" Superintendent, Revenue Survey.

" Collector of Malabar.

" Special Settlement-officer.

MINUTE by the Honorable Mr. J. H. GARSTIN, c.s.i., dated 3rd December 1892.

The Revenue Board have now submitted * the draft of a proclamation to be issued by Government relative to the new revenue settlement of the Malabar district, setting forth the lines on which it is to be conducted. They have also submitted a set of rules for the guidance of the officers carrying out the revenue survey of the district.

2. As regards the Survey rules they will do well enough except that the penultimate clause of rule 3 requires to be altered. It runs thus:—

"For the present these private janmam lands may be divided into fields consisting of two or more entire tenancies, subject to the minimum size of 6 acres for wet and 12 acres for dry and garden lands."

I consider one should be substituted for two. There is no reason for joining two tenancies into one survey field if one is large enough.

3. As regards the proclamation I think it is badly drawn and I have accordingly redrafted it, and divided it into two; one relating to Malabar proper and the other to the two taluks of Malabar-Wynaad and Nilgiris-Wynaad. Mr. Stuart, who carried out the recent revenue settlement of these two taluks (which were formerly the single taluk of Wynaad in Malabar, before South-east Wynaad was transferred, in 1877, to the Nilgiri district) has strongly urged this course. He points out that as these two taluks have been recently surveyed and settled, if a single proclamation is issued relating to the revenue settlement of Malabar and the two Wynaad taluks much misapprehension may be caused, for all that is wanted to be done in the latter is to revise the revenue registers of holdings and to register the janmis of land, instead of their tenants, as the persons responsible for the revenue, in accordance with the ruling of the High Court of Madras in A.S. No. 78 of 1888. Here and there also a few errors in survey may need correction. The Board have not been convinced, however, by Mr. Stuart's arguments, and have made their single proclamation applicable (with certain important limitations) to the two Wynaad taluks as well as to Malabar proper, but I agree with Mr. Stuart that it will be better to keep the two matters separate.

4. The issue of these proclamations is a very important event and I take the opportunity of their publication to raise the question of the liability of all janmis in Malabar to pay assessment on all the culturable waste lands in their occupancy when they have been surveyed and assessed, and the expediency of imposing and levying a small occupation cess or fee in lieu of such assessment.

5. I was not aware, till going through the voluminous file of papers circulated with the Board's Proceedings under disposal, that this question had been raised so far back as 1857, by Mr. (afterwards Sir William) Robinson in a very interesting

report, dated 22nd August of that year, which he wrote on the Wynaad when he was acting as Collector of Malabar. In paragraph 46 of that report he said:—

"Survey and Settlement.—The remedy for these difficulties is obvious and I consider that it cannot be too early applied to Wynaad from which it ought to be spread throughout Malabar, viz., a thorough survey-settlement and valuation of the land of the taluk. The country ought at once to be surveyed and mapped, all the titles carefully ascertained and registered; the land should also be carefully valued and laid out in convenient revenue lots and assessed on this valuation to an uniform and very light land revenue demand, and on the same data a proprietor's fee or permanent rent-charge should be fixed on all land. A proprietor's fee ought to be fixed which should not be exceeded nor should the land any longer be resumable when cultivated by private individuals as long as the rent-charge is duly paid. In the margin he added "This is a difficult point without legislative enactment, but the prosperity of the country depends upon it."

6. In a previous report, written a few days before this one (dated 5th August 1857) on the subject of the then recent attempt to frame accounts, showing the individual holdings of each revenue payee, after expressing his opinion of the utter worthlessness of the Revenue accounts of the district, Mr. Robinson strongly urged the need of a survey of the district and said that "the assessment of hill and forest land is a matter pressing for early solution and could not be grappled without accurate survey-settlement." He was an officer who had served many years in Malabar and knew the country and its people and tenures well, and his opinion is entitled to great respect.

7. The Government passed orders on Mr. Robinson's report in 1859, ordering the immediate commencement of the survey of the Wynaad, which it has, however, taken some 30 years to carry out to completion. The consideration of his proposal relative to a rent-charge on janmis' waste land was deferred.

8. In 1885, the Board of Revenue,* in reviewing Mr. Stuart's and Mr. Logan's reports relative to the revenue settlement of Wynaad, proposed that janmis in Malabar should be made to pay something, however small, on all culturable waste in their own possession. Mr. Logan had raised the question in his report, but was opposed to taxing them, because it would be impracticable, and because "one pie per acre per annum would be more than any janmis or other occupants could bear to pay without being under the necessity of relinquishing their rights." This statement he repeated, with a slight modification, almost immediately afterwards in the same report, saying that "a tax of even one pie per acre per annum is more than many janmis and other occupants could afford to pay" "on the immense tracts (hundreds of square miles in many instances) of wild, jungly, unproductive land in their occupation."

9. The Government in passing orders on the Board's Proceedings (in G.O., dated 22nd July 1886, No. 611, R.D.) somewhat misapprehended the Board's proposal and rejected it. They said: "The Government are unable to accept the Board's proposal that all culturable waste land belonging to janmis should be assessed to land revenue." "The land revenue is the Government share of the profits of cultivation and cannot fairly be assessed on land which is unoccupied and which nobody wants for that purpose." But what the Board proposed was that the janmis should pay something, however small, merely as a tribute to the State for protecting them in the possession of their property.

10. I now again raise the question, for I consider that the Government Order of 1886, above quoted, was wrong in two respects, firstly, in the construction it put on the Board's proposal (which is, however, not very material), and secondly, in asserting that the land revenue is the Government share of the profits of cultivation and that, in respect of the waste land belonging to Malabar janmis, it cannot fairly be assessed because it is unoccupied.

11. It is impossible to deny that Malabar is a ryotwari district and that the revenue settlement of it is a ryotwari one, and I assert that the principle on which the land revenue is assessed and collected throughout the whole Presidency, in ryotwari tracts,

is that a man must pay the assessment on all the assessed land in his occupancy which is entered in the revenue register in his name, whether he cultivates it or not. In bad years when the water-supply for irrigation fails, or when large areas of country lose their crops, remission of the demand may be given by Government as an act of grace, but apart from this the invariable rule is that a man has to pay for all the lands in his patta whether he cultivates them or not. In fact, the test of liability to pay assessment is occupancy, not the fact of cultivation. In other words, private property in assessed land makes it liable to pay the land-tax assessed on it as revenue. The proofs of this are abundant and convincing. One has only to turn to any jamabandi report of the Board of Revenue and see how much land is entered as "waste charged." The last report issued is that for fasli 1300, and this shows that out of 21,141,000 acres of land occupied throughout the Presidency, only 17,822,000 were cultivated and the rest, 3,319,000 acres, left waste, and that of this waste area no less than 3,183,000 acres were charged with land revenue. Out of the above totals, 902,514 acres are shown as the total area occupied in the district of Malabar, and of this area no less than 63,303 acres (or about 7 per cent.) were left waste but paid the land-tax assessed on them as revenue. This shows, beyond dispute, that the assertion in the Government order quoted by me that the land revenue is the Government share of the profits of cultivation, though supposed to be true theoretically, is anything but correct as a matter of fact or practice. As to the unfairness of assessing waste land belonging to janmis in Malabar, because it is unoccupied, the statement as to its being unoccupied is incorrect, and the unfairness consequently disappears. For, all land in Malabar (with the exception of Government escheats) has always been, and still is, admitted to be private property, and all private property must belong to somebody and be in somebody's occupancy or possession as owner, tenant or assignee, and as a matter of fact all land in Malabar belongs (with the exception noted above) to the class of owners known as janmis. Therefore, there is no such thing as unoccupied land in Malabar except waste escheats. It is all occupied, and as such, as I have shown above, it is liable to pay land-tax according to the principles of the ryotwari settlement prevailing throughout the Presidency. But Malabar has never been scientifically surveyed or settled. No cadastral survey has ever been carried out in any part of the district until recently, and consequently none of the great areas of waste private property have ever been registered in the land-revenue registers and assessed to land revenue, as they ought to have been, until the recent survey and settlement of Wynaad, and I therefore maintain that every acre of culturable waste in the possession of the janmis of Malabar should, now that a new survey and settlement of the district is about to be carried out, be surveyed and assessed by the acre in large blocks or survey fields (as has been done in Wynaad) and, when the areas are known and the assessment is fixed, the whole of such land is fairly liable to pay the assessment fixed upon it.

12. I do not propose, however, that the full assessment should be at once levied, because it would be a novel impost which might tell, somewhat severely, on a few of the biggest janmis in the district; and because a 6 pies per acre rate is all that some of their tenants pay for their waste lands. I propose, therefore, that an occupancy-fee of 6 pies per acre should be levied, in lieu of the full assessment, on all waste land in the possession of janmis which is capable of being cleared and cultivated, but when the janmi cultivates any of the land himself or sublets it for cultivation or any other beneficial enjoyment, then the full assessment should become payable on the area so cultivated or sublet, in place of the occupancy-fee. This proposal is embodied in the proviso to rule 5 of the draft rules appended to Proclamation No. 1 as modified by me. I have the less hesitation in making this proposal because the Madras Government of 1886, with what I consider was inconsistency, after denouncing (in the Government order already quoted) the unfairness of levying assessment on unoccupied land belonging to Malabar janmis, on the ground that the land revenue is a share of the profits of cultivation, in another paragraph of the very same Government order directed that in the case of estates, such as coffee-estates, sub-rented from janmis, an assessment of Rs. 2 per acre should be charged on the cultivated portions and 6 pies per acre on all the waste. This direction was repeated in another Government order about a month later (G.O., dated 27th August 1886, No. 741), in which His Excellency in Council directed that all land in estates "which is under cultivation at the

"time of the settlement shall be assessed at Rs. 2 per acre, while the uncultivated" "portion of such estates shall bear an assessment of 6 pies per acre." This rule has been in force ever since. But, I would ask, why should a janmi be excused from paying a 6 pies per acre fee or tax on the waste land he keeps in his own possession, if it is liable to be assessed at that rate at least (and under the waste land rules at a much higher rate) even if not cultivated, directly it is leased to a tenant? Is that justice or fairness? Is it any reason for exempting the janmi that he has a hundred or a thousand times as much waste land in his possession as his tenant?

13. There is no doubt that the Government devised this system for Wynaad as a method of levying a consolidated assessment on estates held from janmis, of which part only was cultivated and part waste, in order to do away with the previously existing and troublesome system of charging on the actual extent cultivated as ascer-

* Vide G.O., dated 17th September 1884, No. 1049, R.D.

tained by annual inspection and measurement, * but this fact does not make their action less inconsistent in regard to the waste land occupied by the janmis themselves.

14. These estates had previously been charged only 2 rupees an acre on the areas actually cultivated, but the Government, not content with the above modification in the method of assessment, ordered (in the Government order quoted above in the margin) that "estates hereafter opened on private land might be charged the same" "rates, on the whole extent of forest and grass, as are now in force under the waste land" "rules." In other words, planters and others now taking up land for coffee-estates from janmis will have to pay 2 rupees an acre for forest and 8 annas an acre for all grass land, whether they cultivate it or not. This, at least, is apparently the rule under the notification relative to the revenue settlement of the Wynaad,

† I have also ascertained from a gentleman in Wynaad, who is a planter, that this is a fact.

approved by Government in G.O., dated 27th August 1886, No. 741, R.D.† But, if this procedure is not unjust or oppressive in respect of an English

planter leasing a comparatively small area of waste land from a janmi, why should it be unjust or oppressive when applied to the janmi himself in respect of the remaining large extent of equally culturable waste he retains in his own occupancy? Of the two men, the one who, on grounds of public policy, is most entitled to lenient and sympathetic treatment at the hands of the State is assuredly the planter, who spends money in developing the soil, rather than the janmi, who keeps it lying idle, because he is not made to pay anything for doing so. At this moment there is a large tract of forest land (known as Kanath), in the vicinity of the Periya ghât, leading from Tellicherry to Wynaad, which has been advertised for sale by the liquidator of an English firm on the West Coast, as being nearly 1,000 acres in area and held under Government in perpetuity at a rental of 8 annas per acre. The Forest Department

† I have since ascertained from the Collector of Malabar that this property is a Government escheat, and was leased on cowle, to the English firm in question, for 4 years rent-free and afterwards subject to the payment of 8 annas per acre as janmi-bhogam, in addition to such tax as now is, or hereafter may be, imposed by Government on similar lands, according to the description of produce raised thereon; the right to minerals being at the same time reserved. These terms are not thought too severe for an European to pay, but all native janmis are allowed to own as much forest land as they please without paying a farthing for it.

15. It is true that janmis in Malabar have never paid any fee or assessment in respect of their waste lands since the introduction of the first revenue settlement in 1805, but that is because those lands have never been surveyed and their area being

have obtained permission to bid for the land if the title is good. From the terms of the advertisement, if they are correct,† it would appear that if an Englishman holds forest waste under Government in Malabar he has to pay 8 annas an acre per annum for it. It is stated that a small portion of the land (some 80 acres) has been planted with pepper and other plants, but if an Englishman is made to pay 8 annas an acre on his waste forest as an attorning fee to Government there is no obvious reason why a janmi should not pay the same, and certainly no reason, that I can see, why he should pay nothing.

16. I will now notice Mr. Logan's reasons for being opposed to the levy of any occupancy-fee. These are, first, its impracticability, and second, the ruinous hardship with which the fee or tax would press on the janmis of Malabar.

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thus unknown it has been impossible to assess them. This was pointed out by Mr. Robinson 35 years ago (*vide supra*). This long exemption from taxation which they ought to have paid is put forward in the office-note on the Board's Proceedings under disposal, as a reason for not levying anything from the janmis now. But so far from being a reason for letting them off I look on it as one of the strongest reasons for levying assessment or a fee in lieu of such assessments from them now. That they have no prescriptive right to exemption has been clearly laid down by the Allahabad High Court in the appeal suit of the Secretary of State *versus* Ram Ugrah Singh and others, reported at pages 140 to 147 of Volume VII of the Indian Law Reports (Allahabad Series). The Court there held that a title to hold land free from assessment to revenue cannot be acquired by any length of possession revenue-free, as limitation cannot be pleaded against the right of the State to assess such lands. The legal right of the Government to levy assessment on these lands is therefore indisputable, and if it chooses to forego part of the assessment and levy a small acreage fee instead why should it not do so?

16. I will now notice Mr. Logan's reasons for being opposed to the levy of any occupancy-fee. These are, first, its impracticability, and second, the ruinous hardship with which the fee or tax would press on the janmis of Malabar.

17. As to the first point Mr. Logan asks in paragraph 16 of his letter printed at pages 28 to 43 of the Revenue Board's Proceedings, dated 13th October 1885, No. 2869, "would it be possible then to tax the janmi on all the uncultivated" "lands in his occupation? I have said above that this would be impracticable." The only argument I can find in the preceding paragraphs of his letter is the following sentence in paragraph 13: "If we propose to exempt all janmis from an occupancy" "cess—the only practicable scheme in my opinion—then on what principles can we" "justly propose to tax the occupancy of a planter or cultivator who has obtained" "from the janmi an extent of land which he means gradually to open and cultivate" "as his capital and opportunities permit?" and pursuing this argument he says in paragraph 15: "A planter obtains a conveyance of (say) 1,000 acres of land for" "coffee; he knows, at the starting of his enterprise, that even under the most" "advantageous circumstances it will take him several years to open up the whole" "of the block; nevertheless he is willing to make an outlay of a portion of his" "capital in buying from the janmi the exclusive right to enter upon and cultivate" "the whole block. And why? Simply because he does not wish to have any" "intrusion in his own schemes; it is an experiment, to a great extent, how much of" "the block will really be fit for coffee; he foresees that some of his clearings will" "have, perhaps in a year or two, to be abandoned; he knows that to profitably" "employ his capital he will require additional land to replace such abandonments." "Even if all goes well with his clearings and he has to abandon most of them, he" "may see his way in future years to employ more capital in the opening up of more" "land. All such forest clearings to be worked economically and profitably ought to" "lie within a ring-fence, so to speak, and so for these and for endless other reasons." "he decides that he must have the exclusive right of entry and cultivation on his" "block of 1,000 acres. Much of this will necessarily lie idle for many years. Why" "should he be taxed for it any more than if it remained in the janmi's hands? He" "obtains nothing more from it than the janmi would obtain if it was still in his" "hands. On the contrary, he is a loser by it to the extent of the interest on the" "sum which he expended in obtaining the conveyance of his exclusive rights in it" "from the janmi. The janmi is the gainer, if any one is, and yet it is not proposed" "to tax him."

18. In paragraphs 17 and 18 of this letter, however, Mr. Logan advances some reasons for his belief that "many and most perplexing would be the questions raised" "as to who should pay the occupancy cess on lands yielding no produce at all." I cannot see why this should be, for while the janmi is in possession of the lands as waste he would have to pay the cess, but if he transfers the possession to a lessee, mortgagee or assignee the latter would have to pay the Government assessment and no cess would be levied at all, and I think the lessee or mortgagee may be trusted not to take over the land on these terms unless he sees his way to getting some produce or profit from it. It is true that the case may be conceived of a mortgagee for 12 years throwing back his land on the janmi's hands and foregoing the kanom amount, after practically exhausting the improvements of the land, but such a case would probably

be quite exceptional and would be met equitably by treating the land as waste when it so lapsed to the janmi, provided he derived no profit from it. There seems to me to be nothing impracticable about such an arrangement.

19. As to the second objection, which is contained in paragraph 30 of the above letter, Mr. Logan formulates it in these words—

“Moreover, the area of land yielding no produce at all is very large . . . the fact remains, as I have said above, that a tax of even one pie per acre per annum is more than many janmis and other occupants could afford to pay on the immense tracts (hundreds of square miles in many instances) of wild, jungly, unproductive land in their occupation.”

20. Mr. Logan served, I believe, nearly the whole of his service in Malabar. He consequently knew the district very well and the voluminous reports he has left behind him, as well as the Manual of Malabar, bear abundant testimony not only to his great ability and energy, but also to the deep interest he took in the district with the administration of which he was so long connected; and yet, as I shall now proceed to show, the expression of opinion above recorded by him is, most probably, very exaggerated and inaccurate. There is this, however, to be said for Mr. Logan in this respect; if he formed wrong conclusions they were, in all probability, based mainly on the district revenue accounts which the recent survey has proved to be most inaccurate. At least, I cannot conceive any other basis on which he could have formed them, and in that case these accounts are more to blame than he is.

21. To his first statement that the area of land which yields no produce at all is very large, I take exception. He probably meant by it that it was not cultivated with the plough or spade, and so yielded no crops, and in this sense the statement may be correct enough, but in the broader sense, that the land is worthless as being unproductive and not bringing in any income to its owners, the statement is misleading and inaccurate. Most of the land is covered with forests, some of which are very valuable, and bring in considerable income to their owners from the timber and other produce which they yield, to say nothing of their actual and potential value for coffee-planting and gold-mining. The deer forests of Scotland do not produce crops, but they bring in large rentals to their owners and in this sense are anything but unproductive and I should imagine are certainly not exempted, on that ground, from the payment of any local rate which may be assessed on productive land. The Kolar goldfields comprise a few square miles of wretchedly poor stony soil, of which hardly an acre is cultivated, but for their area they are probably by far the most valuable lands in the whole State of Mysore as producing the largest revenue per acre in the shape of royalty on gold.

22. The next statement as to the ruinous effect of a tax of even one pie per acre on all the waste lands in the occupation of janmis must, I think, have been based by Mr. Logan on the statistics appended to his own report as Special Commissioner on Malabar Land Tenures in 1881-82. At page lvii of Volume I of the above report Mr. Logan gives the following statement of janmis in the Malabar district:—

STATEMENT showing the number of janmis (principal and minor) of Malabar.

Taluka.	Minor janmis.	Principal janmis.	Total.
Chirakkal	No.	No.	No.
Kottayam	4,650	41	4,691
Kurumbhadd	313	31	344
Wynaad	3,103	26	3,129
Calicut	311	64	375
Ernad	4,451	113	4,564
Walawad	1,347	179	1,526
Palghat	2,152	94	2,246
Ponani	2,319	219	2,538
Cochin	2,174	..	2,174
Total	21,635	629	22,264

* Only those holding at least 100 pieces of land in any one amsam are classed as principal janmis.
* As these statistics were compiled about 4 years after Wynaad had been separated from Malabar-Wynaad, these figures apparently represent the number of janmis in Malabar-Wynaad alone.
At page lix he also gives a statement of 250 of the chief devaswams, or Hindu temples, which are also janmis possessing not less than 100 pieces of land in a single

amsam, so that the total number of such principal janmis is 1,079. I have not been able to find out what is the maximum or minimum area of “a piece of land,” but I find at page lvi of the same volume that the Zamorin Raja (who is the biggest janmi in all Malabar) is stated to own more than 100 pieces of land in 27 amsams, and at page lv Mr. Logan says of him: “It is, however, unfortunate for him, and the same remark holds good of all the big landlords, that his property is so scattered in little bits over the face of the country that he himself can exercise only to a very small extent any personal control over the enormous mass of details of land management with which his subordinates have to deal.” I, therefore, conclude that the majority of all such “pieces of land” are of small area.

23. In Volume 2 (Appendix XVI) of the same report is a comparative statement of area, revenue, population, cultivation and laborers in Malabar, compiled apparently from the village revenue accounts and the census returns of 1871. This gives the following figures:—

Total area of district	...	...	...	...	...	ACS.
						5,555,807
Of this—						ACS.
Area cultivated	{	Assessed	...	...	...	790,746
		Unassessed	...	...	...	336,434
Area culturable but uncultivated			...	...	...	2,558,867
Area unculturable			...	...	...	1,869,760
						5,555,807

If the above figures were correct, the area of the district would be 8,681 square miles, but the Superintendent of Revenue Survey has kindly informed me that the area of the district, scaled from the atlas sheet (which is the nearest approach to exactness at present obtainable), is only 5,677 square miles = 3,631,280 acres, so that Mr. Logan's figures are wrong by about 3,004 square miles = 1,922,560 acres. This is a very considerable error. Any conclusion, therefore, as to the areas of waste lands possessed by janmis, based by Mr. Logan on these figures, must be greatly exaggerated and consequently worthless.

24. There are nine taluks in Malabar, and of these, three, namely, Malabar-Wynaad, Palghat and Walawanad, have been scientifically and cadastrally surveyed with the exception of certain large areas of hill and forest in the two latter taluks. So also has the Nilgiris-Wynaad which, for the purpose I have in view, I regard as part of the Wynaad plateau, to the whole of which the proposed settlement proclamation is to apply. The recent survey of the two Wynaad taluks (Malabar-Wynaad and Nilgiris-Wynaad) shows their areas to be as detailed below:—

	SQ. MLS.	ACS.
Malabar-Wynaad	821.20	= 525,576
Nilgiris-Wynaad	240.13	= 153,687
Total	1,061.33	= 679,263

The above area belongs to Government and to private janmis in the following proportions (vide Revenue Board's Proceedings, dated 14th September 1888, No. 498, and 9th July 1889, No. 343):—

	NILGIRIS-WYNAAD.		MALABAR-WYNAAD.	
	To Govern-ment.	To private janmis.	To Govern-ment.	To private janmis.
Dry and wet land { Occupied	ACRES.	ACRES.	ACRES.	ACRES.
Unoccupied	18,249	39,496	51,145	106,954
Reserved forest	17,839	15,155	112,252	118,421
Poramboke	13,885	46,639	129,403	..
	1,558	866	7,401	..
Total	51,531	102,156	300,201	225,375
	153,687		525,576	

25. In the Nilgiris-Wynaad taluk there are only five janmis and the 102,156 acres shown above as belonging to them is distributed among them as shown in the subjoined statement, kindly furnished to me by the Superintendent of Revenue Survey and compiled from the printed settlement registers of the taluk:—

Janmi's name.	Dry and Wet Land.		Forest leased to Government.	Poramboke.	Total.
	Occupied.	Unoccupied.			
	ACRES.	ACRES.	ACRES.	ACRES.	ACRES.
1. Wandur Nambudripad	1,222	1,638	..	..	2,860
2. Nelliylam Arasu	8,855	336	..	..	9,191
3. Devala Moyar Gold Mining Company	999	..	..	..	999
4. Nilambur Tacharakoil Tirumalpad	28,360	13,181	46,639	866	89,046
5. Kummakammattil Pankunni Panikkar	60	..	..	..	60
Total	39,496	15,155	46,639	866	102,156

Now, a glance at the above figures shows that of these five janmis, by far the biggest land-owner is the Nilambur Tirumalpad, and that out of the 89,046 acres owned by him, 46,639 acres of forest (known as the Mudumalai forest) have been leased to Government. From this lease he derives an annual income from Government of Rs. 4,500 besides a stump fee of one rupee on every mature tree felled. Another 28,360 acres have been leased out by him or are cultivated by himself. Of this area, 24,402 acres are occupied as tea, coffee or other estates, so that, leaving out of consideration the 866 acres of poramboke (unculturable) land possessed by this janmi, he has only 13,181 acres which would be liable to the occupation-fee on culturable waste lands, and even this area would have to be considerably reduced, because within the last year or so a further area of 1,600 acres of forest (called the Kombrakollai forest) has been leased to Government. Thus he has only 11,581 acres of culturable waste land in his own occupancy. On this area a cess or fee of one pie per acre per annum would amount to Rs. 60-5-0 or about 5 rupees a month. Of the other four janmis, two would pay nothing as they have no waste lands in their own hands, while the other two would have to pay, at the above rate, Rs. 8-8-6 and Rs. 1-12-5 per annum, respectively, and supposing the fee or cess was 6 pies per acre, the sums payable by these three janmis would be only the following:—

	RS.	A.	P.
By the Nilambur Tirumalpad	361	14	0
Wandur Nambudripad	51	3	0
Nelliylam Arasu	10	8	0

What hardship, I would ask, would it be that the Nilambur Tirumalpad should pay to Government the comparatively small sum above specified out of the annual rental of Rs. 4,500 which he gets from Government for the lease of a large area of those forests which Mr. Logan has described as "yielding no produce at all," in return for the security afforded to his life and property by the State now and ever since the beginning of the century? These waste lands have been surveyed and assessed at rates varying from 8 annas to 2 rupees per acre, and if the full assessment was levied from the owner on every acre of waste he keeps in his own hands it would be no greater injustice than treating him like an English coffee-planter, though possibly a rather serious burden on him.

26. For Malabar-Wynaad I have not been able to get the same detailed information as for Nilgiris-Wynaad, but assuming that Mr. Logan was correct in saying that there were 369 janmis in Malabar-Wynaad, then, dividing the 118,421 acres of unoccupied private janmam land in the taluk among them, and assuming the whole to be culturable, it gives each an average area of 320 acres, which at one pie per acre per annum would involve a payment by each of them of Rs. 1-10-8 annually. At 6 pies per acre it would amount to Rs. 10 a year each. To call this taxation ruinous is simply ridiculous. Of course, the figures are merely averages and it may not be the case that any of the minor janmis have unoccupied waste in their possession, but even if the whole 118,421 acres of culturable waste in the taluk is supposed to belong solely to the 26 principal janmis in it (an extreme assumption),

the average area possessed by each would be 4,554 acres and the fee on this would be only Rs. 23-11-6 at one pie per acre, and Rs. 142-5-0 at 6 pies per acre.

27. The figures given in paragraphs 25 and 26 *supra* show that the ratio of culturable waste which is the property of janmis, to the area of the whole taluk, is in Nilgiris-Wynaad, about $\frac{1}{10}$ * and in Malabar-Wynaad between $\frac{1}{4}$ and $\frac{1}{2}$ and of the 2 together rather less than $\frac{1}{2}$, and as the Wynaad is, I believe, the most jungly taluk of Malabar and is the only one which has been completely surveyed, I shall probably be rather over than under the mark in applying the Wynaad ratio of culturable waste (taking it at $\frac{1}{4}$ of the whole area) to the rest of the district.

28. The areas of the different taluks have been kindly scaled for me by the Superintendent of Revenue Survey from the atlas sheet and are approximately as shown in the margin. Deducting from the total area of 5,677 square miles the area of Wynaad, the culturable waste in the whole of the rest of the district would be $\frac{4,856}{5} = 971$ square miles or 621,440 acres, which, at one pie per acre per annum, amounts to Rs. 3,236-10-8. This sum divided among the 24,545 janmis in the 8 taluks (exclusive of Wynaad, but inclusive of the 250 principal Devaswam janmis)

	SQ. MLS.
Chirakal taluk	648
Kottayam do.	462
Kurumbanad taluk	538
Wynaad taluk	821
Calicut do.	339
Ernad do.	811
Ponani do.	432
Walawanad taluk	963
Palghat taluk	613
Total	5,677

comes to the petty sum of 2 annas 1 pie each, at one pie per acre per annum, and if a 6 pies per acre rate was levied it would only come to 12½ annas each, on the average, per annum! But, by again adopting the extreme assumption that it is only the principal janmis that have any culturable waste in their possession, the figures work out thus: 1,053 principal janmis would own on an average 590 acres of culturable waste each and would have to pay Rs. 3-1-2 per annum each at one pie per acre and Rs. 18-7-0 at 6 pies per acre. Such taxation cannot be called in any way ruinous or oppressive. These figures, again, are only averages, and, while in the cases of the biggest janmis in Malabar, such as the Zamorin, the Chirakal Rajah and the Kadatanad Rajah, the sums payable would be considerably in excess of the average, in those of most of the rest they would probably be much below it. In any case, when the survey and settlement of Malabar are completed, I think it will be found that the actual average will work out to be less than what I have taken it as likely to be. I consider, therefore, that the actual figures of Wynaad and the above estimated averages, based thereon, justify me in saying that Mr. Logan's statement regarding the ruinous effect which the institution of an one pie per acre occupation-fee would have on the "many janmis," who own "hundreds of square miles" of waste lands, will most probably prove to be very exaggerated and inaccurate.

29. It may possibly be objected to my proposal that it is revolutionary, unjust or oppressive, and that it is inconsistent with the theory of the land revenue and with the facts of its administration in Malabar. I deny, however, that it is revolutionary, in the sense of being likely to create discontent or disorder, for I believe that none of the Malabar janmis, when they see how greatly the new revenue settlement and the registry of janmis as owners will tend to improve the titles to their lands, and consequently increase the value of those lands themselves, will raise any serious objection to paying the small fee I propose, or even a much larger one; especially when they understand that they can escape the payment altogether by sub-letting their lands. I have served for some years in Malabar myself and know something of the country and people, and my opinion on this point is therefore entitled to more weight than those of persons who have never lived or served in the district. As to the injustice

or oppressiveness of the fee, what I have already said in the preceding paragraphs of this Minute proves, I think, with sufficient clearness, that the fee is not likely to be at all oppressive, neither will there be any injustice in its imposition; while, as to its being inconsistent with the theory of the land revenue and with the facts of its administration in Malabar, I have shown clearly that the exact opposite is the case, for the facts connected with the assessment and collection of the land revenue in Malabar, and all over the rest of the Presidency, are by no means consistent with the so-called theory of the land revenue and amply justify not merely the imposition of a small fee such as I propose, but the levy of full assessment on all culturable waste lands in the occupancy of janmis. Indeed, the only really valid argument that I can think of against imposing the small fee I suggest is that the amount it would yield would probably be too small to be worth collecting, but to that argument there is a very simple and conclusive answer, viz., "In that case," "raise the fee." I have been careful to suggest the imposition of a fee rather than of the assessment, which I consider may legally and equitably be imposed, because in the latter case its levy would entail the payment of road fund and village service cesses on its amount, unless specially exempted by legislative enactment, and I do not think that the levy of such additional cesses on waste lands would be quite equitable.

30. The only portion of Malabar into which the fee might be introduced at once is Wynaad, and having carefully perused the notice issued with the approval of Government in 1886, before the new revenue settlement was introduced, I can find nothing in its terms which in any way prevents its imposition and collection there. It might also be simultaneously introduced into and collected in Nilgiris-Wynaad. As regards the rest of Malabar the imposition of the fee, taluk by taluk, must necessarily be deferred till the survey and settlement of each is completed. There is nothing that I can see in the Proclamation of 1805, published by Mr. Warden, with the authority of the Madras Government, which militates against its imposition. That proclamation sets out that it is "a just system of assessment for the Government to derive its land revenue from the patom (or nett rent) payable by the cultivator's tenant to his proprietor." This expression "by the cultivator's tenant to his proprietor" is not a clear one, but I take it to mean that the Government is entitled to share all rent paid to the landlord. The proclamation then sets out how the produce of wet lands, orchard lands and dry-grain lands is to be divided. Not a word is said about the liability or non-liability of waste lands to assessment, so that the question is an open one. There is no need to argue the point, however, because in G.O., dated 18th April 1883, No. 459, Revenue Department, the Madras Government decided, after careful consideration of the history of the existing settlement of Malabar and South Canara, that "there is nothing in it to show that the Government are in any way pledged to maintain the present assessments unaltered, and in justice to the inhabitants of the other parts of the Presidency he" (His Excellency in Council) "recognises the necessity of a revision of the Government demand in those districts in order that they may contribute their fair share to the necessities of the State." In this view the Government of India concurred (vide letter, dated 15th May 1883, No. 533, Revenue).

31. There is no doubt that Malabar has never yet paid its fair share of land revenue to the public treasury, owing to the want of a scientific cadastral survey of the district and there is no matter which affords more room for regret in connection with the revenue administration of the Presidency than that Malabar was not one of the first, instead of being one of the last, districts to be so surveyed and settled. It is a district which is not subject to any great vicissitudes of season. Its crops are not dependent on irrigation, owing to the abundant rainfall which never fails. It has the largest population of any district in the Presidency,* and, excepting Tanjore, its population is denser per square mile,† and yet the incidence of its ryotwari assessments per head of the population, in 1890-91, was only As. 13-4 against Rs. 2-7-8 in Tanjore and against a Presidency average of Rs. 2-0-8,‡ being thus one-third of that of Tanjore and less

* 2,652,565.

† 467 per square mile.

‡ Administration Report for 1890-91, Appendix, Chap II, P. XXIV.

S.B.—The figures of population in this report are those of the census of 1881.

than half of that of the whole of the rest of the Presidency, and this, too, in spite of the fact that, without any charge for irrigation, the incidence of the land revenue per acre of the fully assessed area is eighth in order of heaviness of all the districts, and is considerably higher than the Presidency average, being Rs. 2-2-2 against Rs. 1-9-3. The extreme inaccuracy of the revenue accounts of the district has been proved by the result of the survey and settlement of the Malabar-Wynaad taluk, when the actual area occupied was shown to be 289 per cent., and the increase in demand in assessment 154 per cent., in excess of that entered in the accounts, in respect of the eight amshoms first settled, while in the remaining five amshoms the excess shown was 120 per cent. under assessment and 226 under occupied area. Further proof has been furnished in the Walawanad and Palghat taluks where (from statistics kindly furnished to me by the Superintendent of Revenue Survey) the excess in occupied area over the revenue accounts, shown by the survey, is nearly 65 per cent. and 56 per cent., respectively, and if similar excesses are discovered in all the other taluks of the district we may expect something like an increase of 60 per cent. in the areas and assessments of all occupied and assessed lands. During the last 35 years the fluctuations in the land revenue of the district have been small, ranging between Rs. 16,87,000 in 1858-59 and Rs. 19,24,000 in 1877-78, the average being Rs. 18,23,000, while during the last 15 years the extreme fluctuation has not exceeded 68,000 rupees, so that the people of Malabar have probably escaped, during the former period alone, payment of land revenue to the extent of about 12 lakhs a year, or 420 lakhs in all. These circumstances, of course, afford no ground for treating them with anything approaching harshness or injustice in the matter of revising the land-revenue to be payable by them in future, but they furnish strong reasons for not allowing the existing state of affairs to continue longer than is necessary to complete the survey and settlement of the district, while in settling the new land-revenue assessments there is no class in Malabar whose position more demands just and careful examination, in their relations to the public exchequer, than the janmis, a relatively small, but very influential, class of landed proprietors many of whom possess very large estates which they have been permitted to hold as absolute owners from nearly the beginning of the present century, and of which they have kept a great portion waste in their own hands, without payment of anything by way of land-tax to the State thereon, owing to the accident of there being no survey of their properties, although during much of that period many of them have derived considerable rents from some of these waste lands, and although, according to the revenue practice of the Presidency, and in justice to the other tax-payers in it, these lands ought all along to have been assessed to revenue as occupied private properties.

32. Lastly, on grounds of public policy, the culturable waste lands in the possession of janmis should be made to pay a tax or fee, for its imposition would awaken the janmis, in a way which nothing else would, to a sense of the personal advantage which they would derive by bringing these lands under cultivation by means of tenants or lessees, since they would thus escape the payment of the tax or fee themselves and in its place receive rent from the new tenants, while the Government would receive additional assessment, more land would be brought under cultivation, and thus the whole community would benefit. It might be necessary to take power, by means of a new legislative enactment, to levy the cess, but such a law would be of a very simple character.

No. 1.

PROCLAMATION setting forth the principles on which the Revenue Survey and Settlement of the district of Malabar, exclusive of the Wynaad taluk, is to be conducted.

The High Court of Judicature at Madras having decided in Appeal Suit No. 78 of 1888 that in the case of private janmam lands in Malabar the janmi alone is legally entitled to be registered as the proprietor in the land revenue registers required to be kept under Regulation XXVI of 1802; that he only can be treated as the landholder under the Revenue Recovery Act (Madras Act II of 1864); that in the case of all such lands the Government must deal with the janmi or with his acknowledged representative in interest both in assessing the revenue and in taking steps for its realization; and that all dealings with a third person who has not been put forward as his representative by him are void and of no effect, His Excellency the Governor in Council has been pleased to issue the following rules for the guidance of those officers who may be employed on the survey and settlement of that district, and of the officers of the Malabar district, with a view to bringing the land revenue registers of the district, maintained under Regulation XXVI of 1802, into conformity with the requirements of the law and the rights of the holders of land, and also to safeguard the revenues of the State.

Rules.

1. The "desam" shall be taken as the administrative unit for the purposes of the survey and settlement.
2. With a view to the accurate registration of janmam titles, every individual janmam estate, of whatever extent, shall be separately demarcated, surveyed and registered.
3. All lands comprised in each estate whether "wet," "dry" or "garden," and whether cultivated or uncultivated, cultivable or uncultivable, shall be surveyed and demarcated into fields of a size suitable to circumstances.
4. The name of the janmi of each such estate shall be ascertained by summary inquiry and shall be entered in the Survey and Settlement register subject to the ultimate decision of the Civil Courts in cases of dispute. Where the janmi is not in actual occupancy himself, the name of his tenant or of the actual occupier shall also be entered in the said register.
5. Rates of assessment shall be assessed on all cultivable lands, but shall be levied only on such lands as are now, or may hereafter be, actually brought under cultivation, or taken up for any other beneficial enjoyment; provided that, in respect of all forests and other waste lands in the occupancy of janmis themselves, which are capable of being cleared and cultivated, or of being taken up for any other beneficial enjoyment, there shall be levied from the janmis a fee or tax not exceeding 6 pies per acre, but when any of these lands are sublet or leased out, then this fee or tax shall cease to be levied, and in its place the land revenue assessment assessed on such lands under these rules shall become payable and shall be levied.
6. Uncultivable lands shall not be assessed, nor shall such areas as are taken up for roads or other public purposes, but should any of such lands or areas be hereafter reclaimed and cultivated, the rates of assessment imposed on neighbouring lands of similar quality shall be levied on them.
7. The Revenue settlement shall be based on a field assessment and shall hold good for 30 years, when it may be revised.
8. The revenue registry of all private janmam lands whether cultivated or occupied for purposes of cultivation or other beneficial enjoyment shall be made in the name of the janmi, unless he refuses the registry or desires that his tenant or lessee shall be registered as his representative, in both of which cases evidence shall be recorded of the fact and it shall also be noted in the register.
9. In the event of a janmi refusing registry in his own or his tenant's name in the revenue register, and persisting in his refusal for a period of 3 months, the registry shall be made in the name of the tenant in actual possession, and the janmi's liability will be the same as if he had consented to such registry. Where, however, a janmi's land is occupied without his knowledge and consent, notice of such occupation shall, as soon as practicable, be given to him by the Revenue officers of Government, and if within 3 months he assents to the revenue registry of the land in his own name, it shall be so registered, but if he refuses or neglects to assent within that period, the registry of the land shall be made in the revenue register in the name of the actual occupier and the janmi's liability will be the same as if he had consented thereto.

10. The practice of granting cowles for the cultivation of private janmam waste lands, with out reference to the janmi, by the revenue authorities of Malabar, shall cease.

11. When such lands are occupied by any person other than the janmi himself, but with his knowledge and consent, it shall be the janmi's duty to give prompt intimation of the fact to the revenue authorities with all particulars as to the name of the occupant and the name, situation and extent of the land occupied. The land will then be registered in the revenue registry in the name of the janmi himself, or, should he so desire it, of the occupant designated by him as his representative. Any failure to give the above information will render the janmi personally responsible for the revenue assessed on the land.

12. In recovering arrears of the Government dues, in the cases specified in rules 9 and 11, the land and the crops thereon shall be first attached and sold and the janmi's other moveable and immoveable property, if necessary, afterwards; but beyond attaching and selling the crops on the land, no action shall be taken to attach and sell the land itself during the period of three months' notice specified in rule 9, in cases where the land has been occupied without the janmi's knowledge and consent, so that he may be enabled to take steps to eject the occupier and save the land from sale by paying off any balance that may be due in respect of it.

13. There shall be a separate land revenue register for each desam, and all lands belonging to the same janmi, and situated in the same desam and registered as occupied by the same tenant, may be entered in the same patta.

14. The registered occupiers of all private janmam lands, where they are not the janmis themselves, will, as regards Government, be responsible for the revenue, in the first instance, and the janmis afterwards (as set out in rule 12) until the lands pass from their possession by sale for arrears of revenue or in some other legal manner. The liability of the occupiers for the public dues will continue notwithstanding the transfer or disposal of any part of their holdings until such transfer or disposal is formally registered in the revenue register of the desam.

15. All relinquishments of assessed janmam land must be made through the janmi.

16. The Governor in Council desires it to be clearly understood that the above rules are not intended in any way to affect the land tenures obtaining in the district of Malabar, or to disturb in any way the prevailing relations between landlords and tenants, or to prejudice in any way the proprietary rights of landowners.

No. 2.

NOTIFICATION applicable to the Wynaad taluks of the Malabar and Nilgiris districts, known as Malabar-Wynaad and Nilgiris-Wynaad.

Whereas the whole of the district or taluk known as the Wynaad, of which a portion has been transferred to the Nilgiris district, originally belonged to the Malabar district; and whereas the decision of the High Court of Judicature at Madras in A.S. No. 78 of 1888 is as applicable to the Nilgiris-Wynaad as to Malabar-Wynaad, seeing that Malabar land is as applicable to the Nilgiris-Wynaad as to Malabar-Wynaad, in consequence of that decision that the tenures prevail in both; and whereas it is necessary in consequence of that decision that the land-revenue registers kept under Regulation XXVI of 1802, in the said two taluks, should be revised and re-written, where necessary, in order to secure and safeguard the rights of the owners of land and the revenues of the State; and whereas it is necessary or expedient that the survey of portions of Malabar-Wynaad and Nilgiris-Wynaad should be revised, and that the survey and settlement registers should be altered to correspond with such revision of survey; His Excellency the Governor in Council is pleased to declare that the rules laid down in Proclamation No. 1 of the are applicable, so far as may be necessary or expedient, to the Malabar-Wynaad and Nilgiris-Wynaad taluks, subject to the following limitation, viz. :—

1. That nothing contained in the said rules shall in any way affect the revenue settlement recently introduced into Malabar-Wynaad and Nilgiris-Wynaad, so far as the classification of land, the rates of assessment, and the settled demand are concerned, but the proviso to rule 5 of those rules shall apply to Malabar-Wynaad and Nilgiris-Wynaad equally with Malabar proper.

Minute by the Honorable Mr. J. H. GARSTIN, c.s.i., dated 24th February 1893.

My Honorable Colleagues are both opposed to the adoption of any measures for levying the fee or tax I suggested for consideration, namely, 6 pies per acre on all culturable but uncultivated land in the possession of Janmis in Malabar, one of their arguments being that the figures I had worked out tended to show that the game would not be worth the candle, or, in other words, that the revenue would not be worth collecting.

I have already admitted that if that is so, the objection is a valid one, and though I have not gone to the trouble of working out the probable financial result, I incline to the same view myself, and I therefore do not press that specific proposal any further, being content with having proved, not only the worthlessness of Mr. Logan's dictum that a tax of 1 pie per acre on such uncultivated lands would be more than any Janmi could afford to pay, but also that there is some ground for believing that a tax of six times that amount would fall so lightly and yield so little as not to be worth collecting. But since I wrote my minute I have discussed the question with a large Malabar Janmi, the Rajah of Parapanad (or Paraparaginad), who owns lands in seven amshams, and who said that while the levy of any tax on useless lands such as rocks and hills which could not be made to yield any income would be a hardship and distasteful to Janmis, yet that it would be perfectly fair and in accordance with local custom to levy an assessment from all Janmis in respect of any land which was not cultivated but from which they derived any rent or other profit. I therefore suggest that before the proposed notification issues relative to the Malabar settlement, the Commissioner of Revenue Settlement should be told to inquire into this matter, and if his report confirms the view of the Parapanad Rajah, then it should be notified, in the notification, that the Government reserves to itself the right to levy an assessment of 2 annas an acre, or of a sum equal to half the rental derived therefrom, whichever is lowest, on all uncultivated but culturable land, such as forests, from which the Janmi derives any profit or rent. If this is agreed to, the notification now circulated had better not issue till the report called for is received.

Such an assessment would be quite in accord with the principle laid down in the notification of 1805 that it is just that the State should receive a share of the landlord's "pütam" or rent.

There is, I believe, not much forest land which is not a source of income to Janmis either by being leased out for timber-felling or grazing, or for the collection of forest produce of various kinds, and the tax of 2 annas an acre would probably bring in a considerable revenue, which would, I believe, be paid without objection as being in accordance with local custom.

Although I no longer press the consideration of the specific question I first suggested, I still adhere to my view that all lands in Malabar, being private property, are occupied and that all occupied land that is culturable is liable to pay land-revenue to Government. My Honorable Colleague, Sir H. Stokes, has stated in his note that culturable land is assumed to be occupied for the purposes of cultivation, and hence the liability to pay the assessment on such land originates on its being occupied and continues during occupancy, whether it is cultivated or not. The argument that the enforcement of this liability (in the shape of the levy of assessment), whether the land is cultivated or not, is only another way of acknowledging that an allowance for vicissitudes of seasons is made at settlement, is unsound and does not explain correctly the origin of the practice, which is of far older date than any British settlement. The great Hindu lawgiver, Manu, lays down that the king may take a share of the grain crops "according to the difference of the soil and the labour necessary to cultivate it" (Institutes of Manu, by Sir W. Jones, Chapter VII, 150), but he also lays down that the farmer is bound to cultivate his field "and if he fails to sow it in due time he shall be fined ten times as much as the king's share of the crop that might otherwise have been raised" (Id., Chapter VIII, 243).

Here, then, is the real ancient and original authority for compelling the owner or occupier of culturable land to cultivate it and for imposing a penalty on him if he lets it lie waste. There never was any question of allowance for vicissitudes of season till such an idea was invented by the Madras Government subsequent to 1859. The law as laid down by Manu applies to the whole of India, and I confess I was not prepared for His Excellency the Governor refusing, in his note, to admit that the custom of Bombay or the North-Western Provinces or of any other part of India, of deriving revenue from all lands, constitutes an argument for levying it on occupied but uncultivated lands in Malabar. The custom in Bombay and Mysore, where the ryotwari system prevails, just as in Madras, is embodied in the statute law of those Provinces, and so it is in all parts of India except Madras, while in Madras the practice is really the same, as proved by the enormous area of occupied land annually charged with assessment although left uncultivated, as shown in my first Minute. The only difference between Malabar and the rest of the Madras Presidency—except, possibly, South Canara—is that, while in all the rest of the Presidency the proprietary right to all land of every description, which is not occupied, vests by the Statutory declaration contained in the preamble to Regulation XXXI of 1802, in the State in Malabar it has been, since then, erroneously surrendered to the Janmis of that district. There is thus no unoccupied land in Malabar and consequently there is no "waste" in the true sense of the term, though there are very large areas of uncultivated land. Mr. Baden Powell at page 236 of Vol. I of his "Systems of Land Tenure in India" lays down that "Land is not 'waste' if it has been occupied even though left uncultivated," and this is, no doubt, correct. This is the case of Malabar, where all occupied but uncultivated lands are, if culturable, as much liable to be assessed to revenue as if they were lands held on puttah on the East Coast. Mr. Baden Powell's work has, I believe, been adopted by the Government of India as a text-book for the officers of certain departments.

Minute by the Honorable Mr. J. H. GARSTIN, c.s.i., dated 14th April 1893.

I am no party to this Government Order. I think Appendix I is incomplete and otherwise not well drawn up. It does not even declare that the proposed Revenue settlement is to last for 30 years and may be revised at the end of that period.

ORDER—dated 27th April 1893, No. 346, Revenue.

Miscellaneous.

With the first of the papers read above, the Board of Revenue submits a draft of a proclamation to be issued in connection with the revision of settlement of private janmam holdings in the Nilgiris-Wynaad in accordance with the decision arrived at in paragraph 12 of G.O., dated 3rd December 1891, No. 1152. The second paper read above contains draft rules for the conduct of survey in Malabar and a draft proclamation to be issued in connection with the settlement of that district in accordance with the principles laid down in the Government order quoted; while the third paper contains the revised rules for the survey of Malabar which the Board proposes to substitute for those submitted with the second of the papers read.

2. With reference to the proclamations proposed to be issued, the Government considers that the best course is to deal with the whole of the Wynaad in one proclamation and the unsettled taluks of Malabar in another, as the work to be done in the Wynaad taluks, whether in the Nilgiri district or Malabar, is the same and can be carried out at once in advance of the survey and settlement of the unsettled taluks of Malabar.

3. As regards the survey of the Malabar district, the Government agrees in the Board's remarks in paragraphs 3—14 of its Proceedings, dated 31st May 1892,

No. 402, and paragraphs 2 and 3 of its Proceedings, dated 11th November 1892, No. 733, and approves the revised rules submitted with the latter Proceedings.

4. The Board proposes that, instead of having two columns in the settlement register, one to show the name of the janmi and one that of the pattadar, only one column should be maintained to show the name of the registered janmi or his recognized representative, and it states as a reason for this proposal that "under the settlement which will be now carried out . . . the janmis, as distinguished from the pattadar, will have no separate existence." But this is a complete misconception of the principle of the new settlement, one of the declared objects of which is to recognize the janmi as the landholder and to register his estate in his name. It is true that, for purposes of recovery of land revenue, the registered pattadar will be treated as the landholder, whether he is the janmi of the land or only his representative; but the Board's proposal involves the obliteration of the distinction between the two which is inconsistent with the main principle of the new settlement. The Government accordingly directs that both the columns referred to above should be maintained.

5. As regards the question raised whether assessment is to be levied on all private janmam lands or only on such of them as are occupied for cultivation or other beneficial uses, the Government agrees in the opinion expressed by the Board in paragraph 16 of its Proceedings, dated 31st May 1892, No. 402.

6. Two proclamations to be issued in respect of the unsettled taluks of Malabar and the already settled taluks of Wynaad, are appended to this order.

(True Extract.)

(Signed) C. A. GALTON,
Secretary to Government.

To the Board of Revenue (Revenue Settlement, Land Records and Agriculture).
Copy to the Commissioners of Land Revenue.

APPENDIX I.

PROCLAMATION.

It is hereby notified for general information that His Excellency the Right Honorable the Governor in Council has, after mature deliberation, decided that the Revenue Settlement of Malabar shall be conducted with the janmis in the case of all private janmam lands.

2. It has long been the revenue practice of the district to issue pattas for private janmam holdings to the actual occupants who have hitherto been regarded as the "land-holders" for the purposes of the Revenue Recovery Act (II of 1864).

3. The registered pattadars of private janman holdings are thus frequently not the janmis or real proprietors thereof, but, for the most part, persons holding, directly or indirectly, from the janmis. In some cases they are persons who have entered into occupation without the knowledge or consent of the janmis.

4. The High Court of Judicature, Madras, has recently decided that in the case of private janmam lands in Malabar (including the Wynaad taluk) the janmi alone is legally entitled to be registered under Regulation XXVI of 1802 as the proprietor; that he alone can be treated as the "land-holder" under the Revenue Recovery Act (II of 1864); that the practice of dealing with the occupants of his lands (in cases where he is not in actual occupation himself), instead of with himself, for the purpose of assessment and realization of the land revenue, is anomalous, and that the practice of placing in occupation an applicant for waste lands and paying the revenue thereon giving the janmi the option of occupying such lands and paying the revenue himself is an unwarrantable extension of that anomalous practice. In short, the High Court has held that, in the case of private janmam lands, the Government must deal with the janmi or with his acknowledged representative both in assessing the revenue and in taking steps for its realization, and that all dealings with a third person who has not been put forward as his representative by the janmi are void and of no effect.

5. With a view, therefore, to bring the public registers maintained under Regulation XXVI of 1802, of which the pattas are the counterparts, into conformity with the requirements of the law as enunciated by the High Court, to safeguard the revenues of the State, and to place the

janmis in that legal position which the High Court has declared they should occupy, His Excellency the Right Honorable the Governor in Council has been pleased to direct—

(a) that with a view to the accurate registration of janman titles, every individual janmam "estate," of whatever extent, in a desam—which will in future be taken as the administrative unit—shall be separately surveyed and registered;

(b) that all lands comprised in each "estate," whether "wet," "dry" or "garden," occupied or unoccupied, shall be surveyed and demarcated into fields of a size suitable to circumstances;

(c) that the name of the janmi of each such estate shall be ascertained by summary inquiry and shall be entered in the appropriate column of the Survey and Settlement Register, subject to the ultimate decision of the Civil Courts in cases of dispute;

(d) that rates of assessment shall be fixed for all culturable lands, but shall be levied only on such lands as now are or may hereafter be brought under occupation;

(e) that unculturable lands shall not be assessed. Should any of them hereafter be reclaimed and occupied, the rates of assessment imposed on neighbouring land of similar quality shall be levied;

(f) that the settlement shall be based on a field assessment, which will be a great convenience not only to the Government in recovering the revenue, but also to the people in adjusting its incidence among themselves;

(g) that pattas for all occupied private janmam lands shall run in the name of the janmi, unless he refuses registry or desires that the occupant shall be registered as his representative, in both of which cases evidence of the fact shall be recorded;

(h) that in the event of a janmi refusing registry, or neglecting to signify his assent to the issue of patta in the name of his tenant and continuing to allow the land to remain under occupation for three months after notice given on behalf of Government, the patta shall be issued in the name of such tenant as may appear on summary inquiry to possess the best title to it;

(i) that the practice of granting private janmam waste lands on darkhast without reference to the janmi shall cease;

(j) that where such lands are occupied with the knowledge and consent of the janmi, it shall be his duty to give prompt intimation of the fact to the revenue authorities with necessary particulars as to the name of the occupant, and the name, situation and extent of the land occupied. A patta for the land will then be issued to the janmi himself or should he so desire it, to the occupant designated by him as his representative; any failure to give the information will render the janmi personally responsible for the revenue accruing on the lands.

(k) that where such lands are found to be occupied without the intimation above mentioned having been received, it must be assumed for the protection of the public revenues that the occupation was unauthorized by the janmi and that the occupant is a trespasser. In such cases it will be the duty of the revenue authorities to promptly notify to the registered janmi the extent of the land found to be occupied and the amount of the Government dues payable thereon for the year. The registered janmi will thereupon become legally responsible to Government for the said dues, and it will be for him to take steps, if he chooses, to eject the trespasser, and recover the Government dues together with such rent as he may lawfully demand;

(l) that in recovering the Government dues in such cases, the crops on the land shall, in the first instance, be attached and the janmi's moveable and immoveable property shall not be proceeded against for a period of three months from the date of the notification to him, so that he may be enabled meantime to take the requisite steps for ejecting the trespasser. No patta for such unauthorized occupation shall be issued unless the janmi desires it and the charge will last only as long as the occupation continues;

(m) that there shall be a separate series of pattas for each desam. Lands belonging to the same janmi and situated in the same desam and held by the same occupant will be entered in the same patta, whether the patta runs in the name of the janmi or when the occupant is a different person from the janmi, in the name of the occupant designated by the janmi as his representative.

6. The registered pattadars of all private janman lands who will henceforth be either the janmis themselves, or such persons as they may have expressly designated as their representatives, will, as regards Government, be responsible for the revenue of the land registered in their names, until they pass from their possession by sale for arrears or in some other legal manner. They will continue liable for the public dues, notwithstanding the transfer or disposal of any portion of their holdings, unless and until such transfer or disposal is formally registered in the land registers of the district. Transfers made without being so registered are not valid in the courts, the object of the legal registration being to fix the responsibility for the revenues of the State.

7. The registration of the janmi as the "land-holder," being compulsory at law, settlement with him or his acknowledged representative is the only legal course. At the same time Government desires it to be widely known and understood that the principle of settlement

which has now been finally adopted does not in any way affect the land tenures obtaining in the district; that it does not in any way disturb the prevailing relations between landlords and tenants, and that it does not in any way prejudice the proprietary rights of landowners. On the one hand the clear and unequivocal registration of all *janmam* titles will facilitate the realization, in a manner recognized by law, of the revenue to which Government is entitled. On the other, the adjustment of terms between landlords and tenants and the modifications thereof inevitable on the introduction of the settlement will as heretofore remain matters of contract, but uncertainty of proprietary right and consequent grounds for litigation will be minimized, the security of land-holders and tenants alike being thereby promoted.

APPENDIX II.

Proclamation setting forth the principles on which the recent survey and settlement of the *Wynaad taluks of the Malabar and Nilgiri districts* will be revised in view to bring the land registers of these taluks into conformity with the requirements of the law as lately enunciated by the High Court.

"Whereas the whole of the territory or taluk known as the Wynaad (a portion of which has been transferred to the Nilgiri district), originally belonged to the Malabar district; and whereas the decision of the High Court of Judicature at Madras in Appeal Suit No. 78 of 1888, is applicable to the Nilgiris-Wynaad, as well as to Malabar-Wynaad since Malabar land tenures prevail in both; and whereas it is necessary, in consequence of that decision, that the land revenue registers kept under Regulation XXVI of 1802 in the said two taluks should be revised and re-written, where necessary, in order to secure and safeguard the rights of the owners of land and the revenues of the State; and whereas it is necessary or expedient that the survey of portions of Malabar-Wynaad and Nilgiris-Wynaad should be revised, and that the survey and settlement registers should be altered to correspond with such revision of survey; His Excellency the Governor in Council is pleased to declare that the rules laid down in Proclamation No. I of the

are applicable so far as may be necessary or expedient to the Malabar-Wynaad and Nilgiris-Wynaad taluks, subject to the following limitation, viz. :—

- (1) That nothing contained in the said rules shall in any way affect the revenue settlement recently introduced into Malabar-Wynaad and Nilgiris-Wynaad so far as the classification of land, the rates of assessment, and the settled demands are concerned.

Ed. G. A. Lewis.

20 Copies.

Govt. of {1893} Madras.
REVENUE.

For Office use and
not for issue

Issued

Recd.

Encl.

G.O., 27th April 1893, No. 346.

APRIL

Malabar.

Considering it expedient to deal with the Wynaad taluks alike, whether in the Nilgiri district or in Malabar, and to issue a single proclamation in connection with their settlement and another in connection with the unsettled taluks of Malabar, and approving the revised rules for the conduct of survey operations in Malabar.



Handwritten notes and signatures:
I have not seen
any of the personal bundles
and f.o. on the Malabar
settlements - has any
f.o. issued? f.o. H. B. L.
have it - y. as in case
J. H. P. S.
9/5/93



FORT ST. GEORGE,

Jan 15 1893

My Dear Sir,
His Excellency has
directed that the papers con-
nected with the Madras
proclamation shall be brought
up for discussion at the next
meeting of Council. I am.
While you should see the
letter which Stokes has re-
corded and I sent the

Currents. Office late. You
 have some work for
 your pencil. Please
 return the papers before
 Tuesday.
 Yours sincerely
 Colclinton

57 49
4
My dear father -
I return the Hon.
Sir H. Stokes' note on my
reply. As there is a
Legislative Council meeting
on Tuesday the discussion
will necessarily have to be
rather a short one.
Yours
J. H. Gault

87
REVENUE DEPARTMENT.

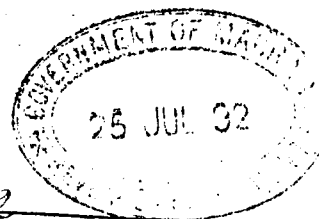
1892.

Board of Revenue

(Revenue Settlement, Land Records
and Agriculture).

MADRAS.

Printed July



As 25th July 32

Proceedings, 31st May 1892, No. 402.

Submitting, for the approval of Government, draft proclamation regarding the settlement of the Malabar district with janmis instead of with tenants and the conduct of the survey operations as called for in G.O., No. 1152, dated 3rd December 1891.

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BOARD OF REVENUE (REV. SETT., L. RDS. AND AGRI.), 11TH NOV. 1892, No. 733.

PROCEEDINGS OF THE BOARD OF REVENUE (REVENUE SETTLEMENT, LAND RECORDS AND AGRICULTURE).

READ—again Proceedings of the Board of Revenue (Revenue Settlement, Land Records and Agriculture), dated 31st May 1892, No. 402.

ABSTRACT.—Submitting, for the approval of Government, draft proclamation regarding the settlement of the Malabar district with janmis instead of with tenants and the conduct of the survey operations as called for in G.O., No. 1152, dated 3rd December 1891.

Read—the following letter from H. O'C. CARDOZO, Esq., Superintendent, Madras Survey, to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Madras, 29th October 1892, No. 412-R. :—

I have the honour to submit for your consideration the following proposed amendment of the draft proclamation regarding settlement of Malabar, the necessity for which was discussed with the Collector during our recent visit to Calicut :—

Paragraph 5 of proclamation, clause A, omit the word "demarcated." Clause D, add the words "or cultivation."

2. Should this amendment be approved, the proposed rules for the conduct of survey will also require change. It will not be necessary to demarcate the boundaries of all janmam estates, many of which are found to consist of very small detached portions situated in different parts of the village. It is proposed to demarcate separately with stone, only such estates or detached portions of estates as exceed 6 acres in wet land and 12 acres in dry or garden land.

3. Each such estate or portion of an estate, however small, will form a separate sub-division of a survey field and will be measured, mapped and registered under a separate sub-number. These sub-divisions will be clubbed to form survey fields in the same way as is done with patta holdings in other districts.

4. By this arrangement, the janmis who supply the stones will be saved much unnecessary expense and the cost to Government of the survey will also be lessened as the surveyors will not be delayed by having to put up the large number of stones which would be necessary if each estate, however small, were separately demarcated.

5. It is also proposed to omit the rule directing surveyors to separate single crop from double crop wet land as it is found in practice more convenient to leave this separation to be made, if necessary, by the Settlement Department.

6. I enclose a copy of the draft rules thus amended. It should be remembered that these rules apply only to desams not excluded from ordinary cadastral survey. In every district containing large tracts of mountain and forest, there are some villages, the climate of which is so unhealthy, the nature of the country so difficult for survey, and the land revenue so insignificant that it has been considered not

worth while to risk the lives of surveyors and incur heavy public expenditure by extending to them the operations of cadastral survey. See Proceedings, Revenue Board, and Government Orders as per margin. On this subject a separate report is submitted with reference to

Proceedings, Revenue Board, No. 143, dated 23rd May 1887.

G.O., No. 3352, dated 10th June 1887.

Proceedings, Revenue Board, No. 382, dated 25th July 1887.

G.O., No. 4759, dated 15th August 1887.

Proceedings, Revenue Board (Revenue Settlement, &c.), No. 6645, dated 11th August 1892.

APPENDIX A.

(Revised Rules for the conduct of cadastral survey in Malabar.)

The desam will be the unit of survey. The boundaries of each desam should be demarcated with stone, surveyed and mapped, such boundaries enclosing not merely the cultivated or cultivable lands, but also forests and hill tracts.

2. The desam should then be divided into its constituent janmam estates, the boundaries of each of which should be determined, surveyed and mapped. The boundary of each janmam estate or detached portion of an estate which exceeds 6 acres in wet land and 12 acres in dry or garden land should also be demarcated with stone. The boundaries of smaller estates or detached portions of estates need not be demarcated with stone, but should be clubbed to form survey fields of about 6 acres in wet and 12 acres in dry or garden lands.

3. The lands composing each janmam property should be sub-divided into survey fields of about 6 acres in wet land and 12 acres in dry or garden land. Each survey field should be demarcated with stone, measured, mapped and registered and should consist of one or more entire tenancies. Survey fields which contain more than one tenancy held on patta from the Collector should be further sub-divided into survey sub-divisions each defining the limits of one such tenancy. Survey sub-divisions will be separately measured, mapped and registered, but not demarcated with stone. Tenancies which are not held on patta need not be measured by the surveyors. If these measurements should at any time be found necessary they can be measured by the menons hereafter.

4. Waste lands, forest and hill tracts may be demarcated into survey fields without any limit of area.

5. In the formation of survey fields, the following precautions should be observed:—

(a) Permanently-cultivated lands should not, as a rule, be included in the same survey field with waste or shifting cultivation.

(b) Each field should as a rule comprise wholly either wet or garden or dry land.

(c) The exception to the above two rules will be when such roads, streams, small tanks, rocks, &c., as it would be manifestly waste of money to demarcate separately with stone, pass through cultivated survey fields. In each such case the roads, &c., should be treated as survey sub-divisions and measured, mapped and registered separately, although not separately demarcated. But where roads, &c., pass through uncultivated survey fields, such as forests and hill blocks, separate sub-division measurement will not be necessary.

6. To economise expenditure of stones, boundaries of survey fields which do not define janmam estates may be marked with a stone at each point of junction of 3 or 4 fields, other bends on the field boundary being left unmarked although they are to be carefully surveyed and shown on the map. This will be done by measuring the straight line between two junction stones and taking offsets to the intermediate bends which are not marked with stones.

RESOLUTION—dated 11th November 1892, No. 733.

The revised rules for the conduct of survey operations in the Malabar district proposed by the Superintendent of Revenue Survey will be submitted to Government with the request that they may be substituted for the rules printed in Appendix A to Board's Proceedings, dated 31st May 1892, No. 402.

2. During his recent inspection of the Palghat, Walawanad and Calicut taluks, the Commissioner had an opportunity of discussing the question with the Collector, the Special Settlement-officer and Mr. Cardozo, and it was generally agreed that it was unnecessary to demarcate with stone the boundaries of every janmam estate, as many of the estates are found to consist of very small portions, often a few cents, scattered over the village. To facilitate the work of the Survey Department and to save unnecessary and often very serious expense to the janmis, it was considered sufficient to demarcate separately with stone such estates or detached portions of estates as exceed six acres clubbed to form survey fields of about six acres in wet and twelve in dry or garden, and separate tenancies held on patta and included in one survey field being sub-divided into separate survey sub-divisions. It was also considered unnecessary to require Survey officers to distinguish single from double crop wet land, as the work could, without inconvenience, be left to be done by the Settlement Department.

3. Opportunity has been taken, while modifying the rules, to lay down exactly what sub-divisions the Survey Department shall be required to measure. The rules, as originally proposed, left this question doubtful in the case of private janmam lands

and would perhaps have thrown on the Settlement Department a large amount of work which properly appertains to, and can be more satisfactorily carried out by, the Survey Department.

4. The revised rules now submitted for the approval of Government provide for the modifications mentioned above.

5. If the revised rules are approved, it will be necessary to modify clause (a) of paragraph 5 of the draft proclamation by the omission of the word "demarcated" in the third line.

(True Copies and Extract.)

M. J. ...
Secretary.

To the Secretary to Government, Revenue Department.

„ Superintendent, Revenue Survey.

„ Collector of Malabar.

„ Special Settlement-officer.

66
Exd. C. M. Brisson.

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REVENUE DEPARTMENT.

1892.

Board of Revenue

(Revenue Settlement, Land Records
and Agriculture),

MADRAS.

Current Number 9818

Printed November

17 NOV 92

Proceedings, 11th November 1892, No. 733.

Submitting for the approval of Government
revised rules for the conduct of survey operations
in Malabar.

P. P. C.

1152 3-12-91
P. P. C. 31-5-92
P. P. C. 31-5-92

For orders.

Submitted

The papers were in file
on the 24th in box
33. There were returned
to the office. The present
rules seem satisfactory.
We will depend upon the
order from C. 5702 & 65.
The modification of the
Rules will be necessary.

3/12

I have on a memorandum the
settlement question sent
to the papers on to the Hon.
Mr. H. C. Stokes -
The main survey rules are
better drawn. Rule 3 is
entirely an improvement by
substituting one or more
for "two or more" to be
a survey field. I have

10/12/92

I accept these rules.

I received the box of papers two or
three days ago. My hon. colleague
Minister is dated 3 Dec. It requires
reply & I have not yet disposed
of the papers. I have

5/12/92

11 Dec

11 Dec

42 15

C Nos: 5182 & 6525

For orders.

With the Currents
read above the Board
of Revenue submits for
orders drafts of Proclamations
proposed to be issued for
making known to the land
holders in Malabar
and Wynad the principles
on which the Rev. Settle-
ment of private gannam
lands will be conducted
in accordance with the
decision arrived at in
G.O. dated 3.12.91 No. 1152
(para's 11 & 12 of that order);
and in doing so requests
orders on certain connected
questions.

2. The first Current
relates to the revision of
Settlement of Nilgiri Wynad

And the Second to the new
Settlement of Malabar
and the revision of settle-
ment of Malabar-Wynaad.

3. As the questions requir-
ing decision in connection
with the first Current are
covered by those raised
in connection with the
Second, the latter Current
may be considered first.

4. The following papers
are printed in the Second
Current.

(1) Letter of the ag. Collr:
of Malabar (Mr. Dumergue)
on the settlement of the
Malabar Dt. and the
draft proclamation
proposed by him. He
proposes a single
proclamation for
the whole Dt. inclusive
of the Wynaad Taluk.

(2) Mr. Stuart's remarks
on the above. He
considers that Wynaad
Taluk should be dealt
with in a separate
proclamation.

(3) The Correspondence
which has passed
between the Collector,
the special settlement
officer and the Superin-
tendent of Survey
regarding the mode of
conducting the Survey
of Malabar for purpose
of the new settlement.

(4) Mr. Stuart's letter and
draft proclamation
regarding the revision
of settlement of
Malabar-Wynaad and
Mr. Dumergue's remarks
thereon.

(5) The Board's Reso: on
the above papers and the
draft proclamation
proposed by the Board
for the Malabar district.

The main questions for
consideration are:

I. As regards the Proclamation

(1) whether, as proposed
by the Collector and
supported by the Board,
a single Proclamation
will do for the whole
district.

district, or, as ⁴⁵ recommended
by Mr. Stuart, the Wynad
Taluk of Malabar
should be dealt with
in a separate procla-
-mation;

(2) What should be the
terms of the Procla-
-mation,

II. As regards the Survey
of the district;

(1) Whether the Survey
and demarcation of
forest and hill tracts
should be carried out
now by the Madras Survey;

(2) Whether for purposes
of the Survey required
for the Re-settlement
of the district, the lands
should be classified
into,

wet, garden and dry,
as proposed by Mr.
Stuart and the Board
or only into,

wet and dry
as proposed by the
Collector.

(3) What limits of area
should

of the
same kind
of limit
↓

This limitation on inter-
-valley and to the
clustering of their tenancies
under the same/primary limit
it has been often as applicable
to the subdivisions of estates generally.
When larger areas are held by
tenants it is more necessary to
subdivide them into "wings" in
fields of the divisions proposed.
The subdivision can be effected
by the terms of any time
the wings change.

Ch.
Rule 3 of the proposed Survey
Rule 20 to be modified in its
last clause - the substance of which
may be found in Para 9 (4) of
K.N. No. 100. The modification
suggested is that the word "and"
shall be substituted for "or" in line
79 of the Rule.

Signature
H. H.

should be adopted for
the several descriptions
of lands;

III. As regards the form
of Settlement Register --

Whether there should be
two columns in the
register, one to show the
name of the gaumi
and one that of the
pattadar, as proposed
by the Collector and
Mr. Stuart, or, as the
Board would be on to
propose, there need be
only one col. to show the
name of the pattadar
whether he is a gaumi
or a tenant.

IV. Whether in the new settle-
-ment the gaumi's waste
lands should be charged.

6. As the Hon. Mr. Gairdner
has stated in his remarks
with C. Nos. 4726 and 4792
that the order of 1886 on the
last question
passed (viz. G.O. 22.7.86 No. 611)
should be reconsidered
before the Survey and
Settlement of Malabar
is

7. These contain merely
copies of letters of
Messrs. Duongue
& Stuart written in
the second current
read at the head of
this note.

is carried out and as the
decision of this question
will affect the orders to be
passed on the other questions
alone referred to it would
be well to consider first
of all the question of
waste lands

7. It is thought unnecessary
to quote authorities to
show that the recognised
rev. practice of the
district has hitherto
been to charge only a
Cultivation. In this
respect the practice
in Wynad was similar
to the practice in Malabar,
and the following extract
from Mr. Stuart's report
on the Completion of the
introduction of the new
Settlement in light-
ansom of Malabar
Wynad will show the
old practice and the
change introduced at the
Settlement. He writes in
paras. 9 & 10 of his report
dated 15.5.88 No 205 at page 6
of

(*) This was however
with reference to
waste lands belonging
to Govt.

48
of G.O. 1.11.88 No. 755)
"----- the basis of the
Govt. demand has hitherto
been a tax on cultivation
or rather on the supposed
cultivation, a system
which so far back as
1863 the Right Hon. the Secy.
of State for India (vide
despatch No 46 of 8 August
1863 printed with G.O. dated
5.10.63 No. 1818) characterised
as objectionable and
which he hoped would
soon be abolished. The
principles on which the
Settlement has been
conducted are enumerated
in G.O. No 611 of 22.7.86 and G.O.
No 741 of 27.8.86 -----
The fundamental
principle is the substitution
of a tax on occupation
as in all other settled
districts for a tax on
supposed cultivation
as heretofore, which was
arrived at in most cases
by guesswork on the part
of the village officer

at whose mercy the revenue is practically lay.

8. What precisely is meant by a tax on occupation does not appear very clearly either from the G.O. bearing on the point or from the report of Settlement submitted by Mr. Stuart.

9. Before however considering this point it would be an advantage to have a little preliminary clearing.

10. From the G.O. & reports referred to above it will be seen that two important changes were introduced at the new settlement viz:-

(1) The old system of assessment under which the revenue demand on wet lands was based on supposed cultivation was replaced by the system ^{determining} of assessment ^{with reference to} on actual area and the nature

(1) G.O. ^{17.} ~~2.~~ 9.84 No. ¹⁰⁴⁹ 977
— 22.7.86 — 611
— 27.8.86 — 741
— 20.5.87 — 500

(2) Reports printed with
G.O. ^{17.} 8.7.87 No. 659
— 1.11.88 No 755
— 12.10.89 — 82

It would appear from the report of the Col. of Malabar printed with B.P. 13.10.85 No. 2869 (vide para. 28 at page 34 of the B.P.) that this rule is practically enforced in that dist. He writes "This notice of abandonment is ... enforced at present by the ryots being held liable for the assessment on all lands of the abandonment of which they have not given notice before a certain date."

nature of the soil — that is, the principle of assessment on land was assimilated to the system obtaining in other settled districts. This change is fully described in Mr. Stuart's report (vide para 12 at page 9 of G.O. 8.7.87 No 659; para 17 at page 17 of G.O. dated 1.11.88 No 755 and ^{page} 13 of G.O. 12.10.89 No. 82).

(2) The second great change introduced, was to charge assessment on all lands included in pattas whether the lands are cultivated or not, the patta dar being relieved of the liability in respect of any land so included only when he has relinquished the land and notified the fact of such relinquishment in proper time to the revenue authority. This, for the sake of brevity

will be called the patta

rule.

Now, the question is whether anything more was intended by Govt. and carried out at the settlement.

19. It would appear from the remarks recorded in the notes with C No. 4726 & 4792 that the principle of assessment on occupation is understood as meaning something more than the patta rule stated above: ^{that the principle is taken to be} ~~namely~~, that in the case of a tenant of a Gaumi he is to be taxed on his entire holding, inclusive of waste lands in his occupation whereas a Gaumi will not be taxed on uncultivated lands owned by him. An example will make the meaning clear. Suppose that a Gaumi owns 100 acres of land made up of 20 acres under cultivation and

and 80 acres of cultivable but uncultivated waste and suppose that he has leased to a tenant half of each ^{portion} so that the Gaumi and the tenant hold as follows

<u>Gaumi</u>	<u>acres</u>	<u>Tenant</u>	<u>acres</u>
Cultivated land	20	20	
Uncultivated land	30	30	
		50	+ 50 = 100

The new principle as understood above would mean that the Gaumi's patta will be for 20 acres while the tenant's will be for 50 acres; that is, ^{that} while the Gaumi will not be required to pay on the 30 acres of his waste land, the tenant will be required to pay on the 30 acres of his waste land; and further that the tenant will not be allowed to relinquish any portion of the 30 acres (nor of the 20) as long

his lease deed continues as it is. This last condition is important as otherwise he may, by relinquishment, cut down his patta to the 20 acres under cultivation. This for the sake of brevity will be referred to as the holding rule, which it will be noted is something more than the patta rule.

13. The question is whether the Government intended to enforce only the patta rule or also the holding rule.

14. That the Govt. intended the latter is the view taken in the notes of the Secretary and the Hon. members with C Nos. 4726 & 4792.

Some of these remarks are transcribed below for ready reference.

The Hon. Mr. Parstin has written as follows:

"What difference is there between a landlord and a tenant

7. In the case of the patta rule the test is merely what are the lands actually included in the patta. The pattadar can relinquish any land so included and if he does not cultivate it he will not be changed.

In the case of the holding rule the test is what are the lands to which a tenant-pattadar has a right of occupation whether that right is acquired by him under an "ottu", "Idaram", "Verumpattam" or any other of the numerous deeds by which it is usual for Gammis to demise their lands to "Kudians". All such lands should be changed and the patta will depend on the deeds.

in respect to occupancy of waste or uncultivated land in the possession of either? Surely none and if the tenant's waste is assessed to revenue at 6 pies an acre why should not the Gammis or landlord's be so?

"No land which has an owner is unoccupied. Therefore all land in Malabar which belongs to a Gammis is occupied and it is a gross injustice that it should all go unassessed when fractions of it when let to tenants are assessed even though left waste and uncultivated.

"If the Gammis claim is valid, he is the landlord, owner and as such the occupier of all the land claimed or owned by him which is not sublet to tenants and in respect of just liability to assessment all the waste or uncultivated land

55
the possession of either is
on the same footing"

The Secretary stated
"What has been decided
is that no tax is to be levied
on cultivable waste
belonging to Gaudis, which
is not brought under
cultivation by them-
selves or leased to tenants
for purposes of cultivation
or any other beneficial
use - - - - - The test in
the Case of the Gaudis
himself will be cultiva-
tion and in the Case of
any person holding under
a Gaudis "occupation".

Against this last
statement of the Secy.
the Hon Sir Henry Stokes
has affixed his initials
apparently in token of
concurrency; while the
Hon Mr. Carsten has
remarked against it
"a most inequitable
and unjust rule."

These remarks seem
show sufficiently clearly
that

56 79
that the new principle is
understood to be that in
the Case of tenant-patta-
dars the holding rule
is to be enforced but only
the patta rule in the Case
of Gaudis pattadars.

15. But if this is the new
principle it is respectfully
submitted that.

On the first place
(1), the carrying out of the
principle will be practically
impossible, being attended
with difficulties some of
which are insuperable
and,

(2) in the second place
it does not appear from
the reports submitted
by Mr Stuart that he
has carried out more

than the patta rule.

16/ In other ^{Settled} districts and in
respect of Settled Gaudis
lands in Malabar and
Wynaad the patta rule
will carry with it the hold-
ing rule since in those
places land not included
in pattas will be regard

as Govt. land⁵³ and it is -
therefore the interest of -
every landholder to see
that all lands which he
owns and wishes to keep
are included in his
patta.

17. But in the case of
private zamindari lands
the case is not so: lands -
not included in a patta
are not Govt. land. -
Accordingly to carry
~~out~~ the holding rule in the
case of these lands it will
be necessary to examine
the deeds under which each
tenant-pattadar holds.

(1) In the first place
this is a tedious process

(2) In the second place
there is no means of
compelling a tenant
to produce all his deeds.

(3) In the third place,
there is no guarantee,
even if he produces
them, that they will
all be genuine.

(4) an efficient agency
will be

x.1 But vide marginal note
to para 10 (2) supra.

58 81-4
will be required to test
the genuineness of deeds
and prepare pattas
accordingly.

(5) and supposing that
proper measures
are adopted to ~~lower~~
- Come all the difficulties
stated above, it will be
open to the zamindar
to spoil the whole
business by taking
out a patta in his
own name in which
case the patta rule
alone can be enforced.
If even that much,
for under the prev.
practice of the district
he can claim to be
assessed only on actual
cultivation.

18. Now, considering the
difficulties in the way of
carrying out the holding-
rule and considering
also that there is no mention
in the reports submitted
by Mr. Stuart of his
having experienced any
difficult

20. The first order on the subject is no. ¹⁰⁴⁹ ~~722~~ ^{17/4/85} ~~82~~ ⁸⁴ in which ^{his post} while ordering that the escheat inquiry in Wynaad should combine a Re-assessment of the tract the Govt. said (para 3) that "the Chief consideration in connection with the revision of assessment is to do away with the present system of charging on the actual extent cultivated ascertained by annual inspection and measurement"; and the Govt went on to state "in the case of the paddy plots this may probably be easily effected. They can be broken up into fields of convenient size, the area of which can be obtained by scale from the survey maps and a system of application for and free relinquishment of specific fields, similar to that in force in ordinary gotwari districts being

land. no. 2. 0. 2. 0. 2. 0. 2. 0. 2. 0.

61/85
should pay for the fields retained in his patta for the year. The dry cultivation when land has been permanently reclaimed and brought under the plough should be similarly treated - - - - -

This ^{it is submitted, is} ~~land~~ ^{only} the patta rule. The next order is G.O. 227.86 No 611. In this the Board's proposal to charge a small assessment on ^{the} cultivable waste land of Gaumis was disallowed, and although it is stated in paras 3 & 4 that only lands "occupied" for cultivation should be taxed there is no indication in that order that the holding rule was intended to be laid down. Nor is there any indication to this effect in the next G.O. No. 741 of 27.8.86. If anywhere it is in the notification approved in ^{the} ~~that~~ ^{last quoted above} G.O. that a clear enunciation of this principle

namely that for the waste
lands which they chose to
retain in their pattas they
were ^{to be} charged not the full
assessment on the lands
but a nominal assessment.
The Complaint subsequ-
-quent to the settlement
was from "native pattadars
and their Complaint was
that the rates introduced
at the settlement were
excessive and that in
"Contrary to the old rules
"they were required to pay
on all land included in
their pattas whether culti-
vated or not - vide the Head
assess. Colbr's observations
quoted in para. 5 of the
Collector's letter first
printed in G.O. 18 Novr 1890
No. 928. The Collector's letter
above referred to contained
his report on the results
of the new settlement ^{in Nilgiri-Wynnad?}
and Mr. Stuart's remarks
on ^{that} ~~the above~~ reports leads
for the support to the
view taken in this note
that

89-X
(*) Note appended to para 20

By far the most ^{difficult} ~~interesting~~
papers in this connection are the
memorial of the Wynnad
Planters' association and the
report thereon by Mr. Stuart,
both of which are printed in
the G.O. No. 500 dated 20.5.87. Other
papers bearing on the same point
are the correspondence which
passed in 1885 between the
Director of Revenue settlement
and the Planters' association
(vide B.P. 29.8.92 No. 1475 Routine)
and Mr. Stuart's report with
reference to that correspond-
ence printed at pp. 25-28
of B.P. dated 13.10.85 No. 2869.

These papers do not show
clearly what those planters who
who held under private grants
and those who held under
Govt.

Govt. respectively wanted.

That the planters as a body wanted appears to be that while their pattas should cover their entire estates, either they should be permitted to pay only on actual cultivation as they were doing till then, or, if as the Rs 2 + 6 pie is insisted on, they should be permitted to shift the incidence of the two rates (Rs 2 + 6 pie) according to their cultivation each year, the 6 pie rate being applied to all such lands in respect of which and in cultivation may be "abandoned" in the planters' sense.

The reply given was in effect, that "abandonment

81591
in the planters' sense" will not be recognized that the rule of shifting the charge proposed by the planters cannot be admitted as that would necessitate annual inspection and measurement which the Govt. wished to avoid, that the planters should pay for all lands which they want to have included in their pattas in accordance with the Rs 2 + 6 pie rate as laid down by Govt. & that in applying this rate the Govt. was dealing with the estate holders in a special and liberal manner especially as it was open to them to have their pattas cut down to any extent they pleased by "relinquishments in the ordinary sense".

This is as I understood the
 purpose of the discussion
 but the case is
 1stly wrong.
 If this view is correct it will follow
 that what was enforced in the
 case of the Estates was only the patta-
 rule. Of course in the case of
 estates held under Gout: who had
 taken the place of fictitious
 Goumis, the rule was practically
 the holding rule; but this is the case
 with the patta-rule in all Gout:
 a lands.

What is proposed to be
 shown in this note is that
 in the case of Private
Gouman lands, no
 difference was made at the
 settlement between the Goumis
 and their tenants. Both
 were required to conform
 only to the patta-rule; and
 for the matter of that those
 who held under Gout: also

that the holding rule was
 not introduced at the new
 settlement ^{in respect of private Gouman lands}
^{by Stuart}
 He writes in para 5 of
 his report (vide page
 15 of the 9 last quoted)

"As regards wet lands the
 total area occupied as per
 rev. acct. prior to settlement
 was 2892 acres whereas by
 exact survey the real
 area was found to be ^{77486.6} 77486
 acres or an increase of
 167 per cent. In other words
 before the settlement the
 occupants of these 77486
 acres had been permitted to
 pay on only 2892 acres -
 which was supposed to
 represent the area actually
 cultivated. At the new
 settlement it was carefully
 explained to the ryots
 that in future they would
 be required to pay on
 the area held and not
 merely on that supposed
 to be cultivated, and
 it would be well for the
 to determine
 what are as they really

resulted in any diffce it was on the same level the Govt to the disadvantage of the Jannai as he thereby lost the privilege they had till then enjoyed of being required to pay assess-ment only on lands actually cultivated by him. (Note: It is true that even the tenants enjoyed this privilege but as will be shown below they had no claim for such a privilege).

24 And, if the view expressed in para. 20 is correct, namely that the Govt. itself did not intend anything more than what was actually carried out at the settlement and this view received further support from the circumstance that the Govt. accepted Mr. Stewart's report referred to in para.

21 Sumner, the question stated in para. 8 above may now be answered:

25. The question was: what is meant by a tax on

What was intended was to substitute for a system of charging actual cultivation which necessitates annual inspection & measurement a system of charging for all land occupied for cultivation whether actually cultivated or not. It was to say that all land held in pottah was to be charged for as in the East Coast. This plan would be same both for Jannai & tenant. When land is charged only for the land extent in the pottah annually deposited the pottah holder whether Jannai or tenant could be at liberty to relinquish every year his land as he is not obliged to cultivate in that year. It would be inequitable to charge a tenant the assessment on all the past in his holding whilst the Jannai if he had not been in would escape taxation.

The rule is that every land holder (whether Jannai or tenant) his acknowledgment & representation the Government will be made in putting him to take out a pottah for all land which he intends to cultivate and that he must pay the assessment there so long as the pottah endures. Whether the land is cultivated or not. Government will be obliged on any land which is

cultivated in terms of the area entered in the pottah as on the East Coast it being the duty of the Jannai to bring to notice his cultivation. The charge would be at 1/10th rate. In fact the difference between the new & old system is that the land holder must relinquish before a certain date whether he is willing to cultivate or he will be held liable for the assessment.

The tedious length to which the discussion of this point has been carried in this note is regretted. It seemed that there was some misapprehension on the point and the note follows the order in which the question was studied and the conclusion herein submitted was arrived at. If the note itself is found to be based on a misapprehension the writer of the note begs that he may be pardoned for having given unnecessary trouble.

The note has been prepared with great care & pains but I do not think it necessary to have been clearer of the use of the expressions "pottah rule" & "holding rule". L.H.

one occupation. The answer is, the patta rule worked with reference to the exact area and scientific rates of assessment.

25. Is this the system to be followed in the revision of Wynad and the new Settlement of Malabar?

26. One thing that deserves to be considered in connection with this question is the restriction of the power of Government over private gannam wastelands imposed by that judgment of the High Court which was the occasion of the contemplated new settlement of these tracts.

27. At the Wynad settlement it was declared that "on & after the introduction of the settlement" "all lands wet or dry shall only be taken up or relinquished on the system of 'Partihasht' & 'Razinama' one object of this declaration was doubtless to facilitate the working of

of the patta rule. But there was also the idea that the Govt. could grant private gaudam waste lands for cultivation without reference to the gaudmi. This course has now been declared to be inadmissible by the High Court judge - ment reserved to alone; and in accordance with the ruling of the High Court, it is now proposed to declare (vide para: 5(6) of the Proclamation in appendix B in C. No. 6523)

"That the practice of -
"granting private gaudam
"waste lands on darkhast
"without reference to the
"gaudmi shall cease".

28. The second question whether the gaudmi is to be permitted to lock up his waste lands to the detriment of the Govt.:-

rem: according becomes in consequence of the above decision one of the most important

29. The Hon. Mr. Garstin would impose a cess of 3

I think so.

theoretically, but not practically. It will not become a practical question until it is shown that the jans are so blind to their own interest as to lock up land. I don't think there is more, or less was, any necessity for the cess system. If such necessity ever arises, it will have to be met by legislation in the way already proposed, & dropped

U.S.

This I presume means that under the revision of regulations in by law & all patta and will be treated alike.

72 98
3 pias an acre on the waste lands of gaudmis. In making ^{this} proposal the Hon. member appears to have had two considerations in view.

1st that it is unfair to charge the waste lands of a tenant while a gaudmi is not taxed on his waste lands.

2nd. there is no reason why a gaudmi should not be required to pay a tax to Govt. on all lands which he owns, like any other landowner.

As to the first - it has been pointed out above that under the new settlement of Wynad all pattadars of private gaudam lands are treated alike. The charge of unfairness was preferred by the Hon member with special reference to the 6 pias rate charged on waste lands included in certain estates; but as pointed out in a previous portion

portion of this note the estate holders have not been treated unfairly but on the other hand have received a special concession in this matter.

30. The Second Consideration mentioned above reopens the question raised by the Board in 1885 and in its Pro. dated 13.10.85. No: 2869 (vide para. 6 of the B.P.) and decided by Govt. in its order dated 22.7.86 No: 611. —

The Govt. then negatived the Board's proposal and remarked as follows:

"The land rev. is the Govt. share of the profits of 'Cultivation and cannot fairly be assessed on land which is unoccupied and which no body wants for that purpose. The Malabar custom to which the Board refer goes rather against than in favor of this argument; since it authorizes a charge only where the land is about to be wanted for

It may be pointed out here that these estate-holders are of two classes:

- (1) Those who hold under private Ganimis;
- (2) Those who hold under Govt.

Before the recent settlement both were assessed only on cultivation; at the settlement the patta-mule was introduced, but with the concession that for the waste lands which the estate-holders chose to have included in their pattas they were required to pay only 6 pice per acre.

As I have pointed out in the margin of Para 22 the estate below has not been treated as land revenue but as land tax for which they have been charged for waste land revenue but not land tax.

This statement is not very accurate. In the first place the land revenue in Malabar is a share of the land's rent - & so land which is private property can be said to be unoccupied - or is it clear that is the purpose to which it is applied. Probably 'occupation' or 'cultivation' was meant - but all large jammis in Malabar derive considerable income from the forest, which they cultivate, but for them they pay no assessment, though they are occupied & take

interest & purpose yield 'profits of cultivation' in the shape of rent from transplants & cut-down & in some cases the land revenue (patta-mule) is paid.

It would appear that at the new settlement recently introduced in Travancore that Govt. has changed a light assessment on waste lands - vide para. 12 of that Govt. Settlement Proclamation of 24.7.86. A memo. has been sent to the President in Travancore for further information on the point.

The Resident has sent a D.O. explaining that in Travancore the bulk of the waste land is the property of the State. Hence there is no obstacle to the change. See D.O. dated 31 Aug. 1886.

The Dewan in his D.O. dated 18.10.86 says that there are certain jammis in Travancore (like the Thiruvithirappur Raja, I fancy) who hold land in large areas in the hills & only pay a share of the rent they get on their cultivated land to the Travancore Govt., but otherwise they are not assessed on their waste land. & hence on their waste land. The information on this point is incomplete. L.H.F.

"for cultivation. This is certainly not the case in regard to the great bulk of unoccupied Ganimam land in the Wynad or even in Malabar and the Govt. is constrained to agree with Mr. Logan in the opinion that the Board's proposal on this subject cannot be given effect to."

31. But now that it has been decided that when lands are wanted for cultivation it is not open to Govt. to grant the waste lands of Ganimis, it may be considered whether in the interest of Govt. rev. it is necessary or desirable that the power of the Ganimis over their waste lands should in some manner be curtailed.

32. Two Courses are Conceivable

- (a) To take power by legislation to grant Ganimam waste lands for cultivation.
- (b) The previous proposal to levy a cess on Ganimam lands.

33. Two attempts were made in the direction indicated in (a) above, first in the Malabar Tenancy Bill (vide Sec: 88 of the Bill at page 150 of the Vol: on "Malabar Land & Res" and paras: 54 & 55 of the Report of the Malabar Commission at pages 139-140 *ibid*) and next in the Bill to Control eviction and the monopoly of land in the district of Malabar - vide the file of papers on Bill I. S. I of 1887⁽¹⁾. But both proved abortive.

34. The second alternative which is merely a revival of the Board's proposal negatived in G.O. dated 22.7.86 No: 611 was suggested in the note for orders with G.O. dated 3.12.91 No: 1152 - The suggestion then made was that in the event of the new settlement being made with the Gaimi a Consolidated fixed assessment determined by adding to the

They were dropped because there is usual necessity for the power of summary courts

U.S.
(1) Please see the statement of objects and reasons appended to the Bill - in the file put up.

the assessment on actual cultivation at the time of settlement, a small additional charge in commutation of assessments to be viable on extension of cultivation may be introduced. But the Hon: Sir Henry Stokes wrote then as follows:

"I don't think any attempt should be made to settle with the Gaimis for whole estates or to compound with them for future possible occupation of waste, as suggested in para: 22 of the note. That procedure which was adopted for plantation estates in the Wynad is entirely unsuitable to large Gaimi estates in Malabar which comprise large tracts of reclaimable forest as well as large extents of cultivable waste. It would not be right or expedient to abandon the Govt. right to

I agree in this view

(Initialled) H.B.

77
 "to share in expanding here:
 "year by year during the
 "currency of the settlement
 "and it could not be compounded
 "for with any confidence
 "that the composition would
 "represent the value. It
 "would assuredly be far
 "below it. The cultivable
 "waste must be blocked
 "out and assessed by the
 "Survey and Settlement
 "Dept. as in other districts
 "and we must depend upon
 "the vigilance & Suppiciency
 "of the village and her
 "establishments to see that
 "new cultivation is brought
 "to assessment and account."

And the Hon. Mr. Forster noted
 thereon as shown in the
 margin.

35. Figures are not
 available as to

- (1) the extent of culti-
 - vable waste land &
 - (2) the probable annual
 - extension of Cultivation
- In appendix XVI in vol
 II of Mr Logan's "Report
 on

Initialed
 J. H. G.
 By cultivable waste I meant,
 given, all waste land such
 as fields which could be cultivated
 by simply being cleared - and as
 opposed to forest land, which is
 more, rocks, roads &c.

A. Courne
 11/1

area cultivated	assessed - 790,746
	unassessed - 336,434
	<u>1,127,180</u>
area cultivable but ~~not~~ cultivated	2,558,867
do: uncultivable	1,869,760
	<u>4,428,627</u>
Grand Total	<u>5,558,607</u>

Mr Logan said in para 20 of his
 letter printed in P.M. News
 13 Oct 1895 that one mile per
acre more than any
Tamils or other occupants ever
used to pay without being under the
security of relinquishing their rights.

He said also at the closing of the
 same Para. that a large number of
 the people are for some time
 been using the waste land
 could afford to pay on their own
 fields (the hundred of acres) which
 is many instances of wild jungle
 unproductive land in this occupation.
 I have nothing to add to what he has said.

Malabar & including Wynad.

Year	Extent changed acres	Assessment Rs
1295	719,495	16,97,565
'96	730,420	17,05,107
'97	737,925	17,06,428
'98	735,793	17,11,870
'99	753,182	17,31,203
1300	764,846	17,43,875

Excess of
 the figures
 of 1300 over
 those of '95.
 But if the statement has been
 arrived at on the principle of
 supposed cultivation, these figures
 will not be of much value.

78 101
 on the Malabar Commission.
 it is stated that the area
 of cultivable but ~~not~~ ~~uncultivated~~
 cultivated land is about
 2,558,867 acres. It may indeed
 be doubted whether this figure
 can be near the mark, seeing
 that if the figure is correct
 it will mean that more
 than $\frac{2}{3}$ of the cultivable
 land in Malabar remains
 waste.

But supposing that
 the figure is approxi-
 mately correct, a cess of
 3 pies on this area of waste
 will bring in an annual
 rev. of about Rs 40,000.

Now the marginal figures
 taken from the Zama
 - bundi reports show
 that during the five years
 (from fashi 1295 to fashi
 1300) there was in Malabar
 (excluding the Wynad
 taluk) an increase in
 Cultivation of 45,351 acres
 assessed at Rs 46,310;
 or an annual increase
 of over 9000 acres assessed
 at

adhering to the view he then expressed on that question, he desires that the Gaudis should be required to pay a small cess on all waste lands in their occupation - Such cess to continue so long as the land remains waste and to cease when the land is brought under cultivation.

39. In either case and more especially if the second course is to be adopted, it will be necessary to consider whether the Gaudis can claim any right to hold their waste lands free. This is a large historical question on which different views have been expressed. As a matter of actual revenue practice the British Govt: has always accorded to the Gaudis the privilege of holding their waste lands free of tax.

The most important

Yes. I wish to be on grounds of justice, equity & public policy. I think it is the history of the Gaudis to get their waste lands cultivated - by waste lands, being by Gaudis all forests & other lands of the Govt: is capable of being cleared & cultivated - at least for a number of years. It is not a change in the area occupied by backwoods, rivers, roads, etc. or a change in the nature of the land but a change in the use of the land for cultivation. It is the history of the Gaudis to get their waste lands cultivated - at least for a number of years. It is not a change in the area occupied by backwoods, rivers, roads, etc. or a change in the nature of the land but a change in the use of the land for cultivation.

Diff. H61

It has been ruled by the Madras High C. at page 140 & 141 of J.L.R. Vol. 11 of 1885 that title to the land free from assessment because it is required by the Gaudis to be free from assessment.

This decision is not relevant H61

as an act of grace. Question. H61

document on the subject is the Proclamation issued by Govt: under date the 21st July 1805 from which it would appear that the Govt: agreed to limit its land revenue demand on Gaudam holdings to the lands brought under cultivation. The circumstances under which that Proclamation was issued are stated concisely in paras 21-23 of the report of the Collector of Malabar dated 24.3.81 No: 883 printed at pp. 10-2 of the G.O. dated 18.4.88 No: 459 (vide also the papers numbered 16 to 27 printed at pp. 227-35 in Vol. II of Mr. Logan's report as Malabar Special Commissioner).

The Proclamation does not state in express terms that the land revenue demand will be limited to lands under cultivation but this is stated to be in the paper circulated by the

Because there was no idea of assessing them. It is precisely the problem that is what is to be done with the waste lands.

I don't think so. In this paper it is stated that the proposed rate will

the Collector (Mr. Richards) among the Rajahs and principal landholders and in the agreement signed by them; and the proclamation purports to confirm the principle of assessment concurred in by the landholders.

The subsequent re-his-tory of Malabar has been in conformity with the principle of levying assessment only on cultivation. Whether all this would be regarded as giving the Gannies a prescriptive right to hold their waste lands free is a question on which legal opinion may be taken. It is true that Civil Courts are precluded from taking cognizance of questions relating to rate of rev. payable to Govt. (See: 58 of Act of 1864 and in the recent *Attipadi* suit (IX Madras 175) the High Court said

in *permanency* fixed on the land as in a *state of produce* & applied to *land* which may be offered to be brought into cultivation.

This refers to *grants*. Nothing is said as to *waste lands* receiving *tax* & *land*.

I go further & hold that the Govt. is bound by its proclamation of 1805 not to tax any *grain* products except in those *limited* cases, namely, *coronet*, *cream* & *rice*. See my *late* *stated* *critic* § 10. *Dated* 5th Apr 1894 no 756. The *Govt* *has* *been* *known* *not* *to* *accept* *my* *view*.

Ch
No remedy for any suit filed in the High Court of Madras based on the point in form of Govt.

§ 45. "All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land revenue to Government according to the rules hereinafter enacted, except such as maybe wholly exempted under the provisions of any special contract with Government or any law for the time being in force."

But nothing in this act shall be deemed to affect the power of the legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the state may render such levy necessary."

that its judgment respecting the ownership of the lands in dispute would leave unaffected the right of the Crown to revenue, but the *Madras* High Court held in 2 M.H.C. Reports 167 that "the Civil Courts have *no* jurisdiction to entertain suits brought to try questions of liability to the public revenue assessed upon land." If it is likely that civil Courts will interfere in the event of the Govt. proceeding now to declare that *gannam* waste lands are liable to pay revenue, the safest course would be to bar such interference by legislation. The state can it is thought ascertain when it chooses its paramount right to tax lands in private occupation (please see on this point Sec: 45 of the Bombay Land Rev. Code Act

Set I of 1879⁸⁵. But before asserting this right and having recourse to legis-
 -lation (if necessary, & to enforce it, the Govt. should carefully consider whether it would be a breach of faith with the Gaonmis to do so and whether the exigencies of the state or any other interests call for the measure.

40. With reference to the Hon. Mr. Carstairs' remark in the notes with C. Nos. 4726 & 4792 that in the case of the uncultivated lands in the Attipadi valley which was in the occupation of various persons, Mr. Logan recommended a 6 pies or 3 pies rate of assessment and the Govt. sanctioned his proposal; it is submitted ^{that while} in para 2 of G.O. of 1st February July 1887 No. 630 the Govt. approved Mr. Logan's proposal to assess all occupied land in the valley at such rates as he may consider suitable. The Govt. said subsequently the Govt. in the

It would appear from a dictum laid down in a Judgt. of the Allahabad High Court that recourse to legislation will not be necessary. In the Judgt. reported at pp. 140-18 of Vol. VII of the Allahabad Series of the Indian Law Reports, the Judge says (p. 143) that he does not "agree with the subordinate Judge in holding that any length of possession of these lands free from rev. would give plain title a title by presumption to hold them free from assess. ment with revenue". At page 144 he again says "limitation can not be pleaded against the right of the State to assess with revenue lands held to hold revenue-free". The Judgt. in 2 M. H. C. R. 167 is also quoted in the above.

I am sure for an amicable settlement this offer of Logan for limited district is the best to be made. Hence the authority express the Govt. to be promptly withdrawn. Ch 18/4

104
 113
 said in the order dated 17 May 1888 No. 354 (para. 4) that the authority granted to the Collector by G.O. dated 1.7.87 No. 630 to assess all occupied lands was intended to cover only lands occupied by tenants and not those that are merely claimed by Gaonmis. - Reference is also solicited to para 34 of the Board's Proceedings (Settlement) dated 30.1.88 No. 44 and the Board's Progs. (Settlement) dated 6.3.88 No. 113 stitched with the original of G.O. dated 17.5.88 No. 354 and to Hon. members remarks recorded with the note for orders with that G.O.

41. With reference to the Hon. member's remark to the effect that it is possible he might have proposed to charge a small rent of 3 pies per acre on waste lands in Malabar, in the papers connected with the Attipadi valley Claims suits, it is submitted that the only remarks

42. Returning to the questions
enumerated in para. 6
Supra:

(1) There appears to be no objection to having a single proclamation for the whole of the Malabar district (para: 2 of the B.P.).

~~part of that the~~
The Board's draft has
been framed by
putting together with
slight modifications
here and there, the drafts
submitted by Messrs.
Duvergue

The point is hidden in the note -
W. Stuart sent in a diff Portland
printing. It requires printing
from some land in the 2 Woods
- Nilpini - W. & Kachin - W. & Kachin
that the neighborhood of itself -
The D? sent them up to fort. meaning
that the Portland is relating to Kachin
& Kachin - W. & Kachin - W. & Kachin. But
as Kachin of W. & Kachin (Nilpini &
Kachin) is in the same book for
Stuart - is right in saying that one

Proclamation No. 2 had sent the
whole thing off; but has been
settled with the matter with
proper. There have to be 2 Procla-
-mations - one for the Wilsonian
system and the other for the Wilsonian
system. The latter is included in
the former in the latter.

"When as the High Ct. & c. - down to
 "an original practice" - Then in
 place of the words "In short" R. 3. con.
 And then as down to the end of
 the sentence, & then R. 3. con. the
 word "It is said" for "It is C. has
 reached to some the following
 words in view to bring the
 public expenditure of land paying
 revenue to foot, maintained under
 Reg. XVI of 1902, into conformity
 & c. down to the words "the sh.
 occupy". The words "of which"
"the Paltan are the counterparts"
 sh. be omitted as in cons. A
 Paltan is only a copy of one or more
 entries in the register. Paltan
 are not counterparts of the register
 If they were each V. to a book as
 they are the register itself.
 The word "that" at the beginning
 of clause a to be sh. be
 omitted -

Clause 1. & 2. Approximately 50
 Clause 3. & 4. 60
 The words long-term occupation
 into the following: substituted by the

The words "and to
"place the Gaurami
"in that legal position
"which the High Court
"has declared they
"should occupy" —
Seem hardly necessary

" Clause 6 of our Demergues
" Notification is wrong. The
" Government have ordered
" that ganon is cultivable
" waste is to be surveyed
" and assessed like other
" land". Possibly the

How: members overlook
at the time that the
clause related to —
uncultivated

uncultivable waste.

(c) Para 5(g): "unless he refuses registry" - it would be clearer to say "unless he declines to take water in his own name".

(d) Para 5(h): The word "or" in the first line may be changed into "and"

For the last line the word "tenant" maybe altered into "occupant" Para 5(i). It must be assumed for the protection of the public that the occupation was unauthorized by the Gaumi and that the occupant is a trespasser.

The words maybe altered into "it will be assumed"

This is not exactly the same thing. The expression 'refuses registry' is in the 2nd line of a registered Gaumi. Such cases will be rare but might occur.

he 'or' is right. It is in.

'tenant' is right, the person who is occupying the land - can be in October or November. It shows the actual occupant may be a trespasser.

xx Gaumi himself a trespasser for purposes of nullification of title. Provided, that a special case is made out showing that the Gaumi is in possession of the land in respect of which he is claiming title. This is in his own possession. For the purpose of the law, the Gaumi is to be considered as the owner.

Clause 1(f). Omit "which will be assumed" in line 6. Clause 1(g). Should read: "except in the case of a private person who is a registered Gaumi, all persons who are not registered as such shall be deemed to be trespassers."

This is better.

assumed that the occupation was unauthorized

in line 6 the word "legally" may be omitted

(f) Para 5(h) - In line 1, after the word "recovering" the words "from the Gaumi" maybe inserted.

In line 4, for the words "the requisite steps for ejecting" maybe altered into "such steps as he may deem fit, against."

The Gaumi may accept him as a tenant.

(g) Para 6.

"The registered pottadar of all private Gaumian lands who will henceforth be the Gaumi's themselves or such persons as they may have expressly designated as their representative will -"

This is not quite correct as there will be a third class of pottadars

It is immaterial.

Clause h. Should read: In the case of a Gaumi refusing registry or refusing to sign the assent to the registry in the name of his tenant, but continuing to allow the land to remain in the occupation of such tenant for 3 months after the expiry of the term of the lease, the registry shall be made in the name of such tenant.

Clause j. In the last sentence substitute: The land shall be registered in the name of the Gaumi himself or in the name of the occupant or his representative if he so desires it. Any feature before the information with regard to the Gaumi personally responsible for the revenue arising on the land.

Clause k. Omit the words, for "it is not to be assumed" in line 5 "in such cases" - substitute "presumes" in line 7 substitute "occupies".

Clause l. For "in such case" in line 1, read in the case specified in cl. k. & in line 4 substitute "occupies" for "presumes". For the last sentence substitute: "No registry of such unauthorized occupant shall be made unless the Gaumi desires it."

Except in the case provided in clause 5(h), no person shall

Clause m. - Should be amended: There shall be a separate revenue register for each domain in which shall be entered the occupied land

under para: 5(h).
"Will as regards Govt:
"be responsible pro-
"prietors of the land -
"registered in their names"

This appears to have taken
from para 1 of S.O No. 24.

But there is no need to adopt
the wording of the S.O. It
is better not to use the word
"proprietor" here. Moreover
where the hattadar is a
different person from the
Gauami, ^{the} names of both
will be entered in the Register
against the land: and it will
not therefore be correct to
designate the hattadar
as proprietor. It will be
sufficient to say that the
hattadar will be responsible
to Govt. for the payment
of the Rev. assessed
in the lands included in
the patta.

The last sentence runs
"Transfers made without
being registered are not
valid in the Courts, the
legal registration"

occupied lands belonging
to any person other than the
Gauami, or held by a tenant
for purposes of cultivation.
Para. 6. Should run
as follows:
"The registered owners of all
private possession lands, who
are responsible to Govt. for the revenue
assessed thereon, shall be liable
for their possession by act
for payment of revenue as by

In this connection the
question should be con-
sidered whether in the
case contemplated in
para. 5(h) of the Proclamation,
that is, when patta is issued
to a person in occupation
but not nominated by
the Gauami, the revenue
officers are to deal
only with the hattadar
for the purpose when
processes have to be
taken against the land
for the recovery of the Rev.

It is thought that in
such cases notices may
be directed to be
served on the Gauami
also. If this is approved
either a provision to this
effect may be inserted
in the draft Procl. or
the procedure to be followed
may be laid down
in the S.O. For the
guidance of the Dist.
Officers of the Dist.
In the Gauami does not appear to
be necessary in such a case, the Gauami
is assumed to be a person who is liable

Transfers, in the latter
case until the transfer is
only registered in the Deewan
register.

Para 7. Should run as follows:
"H.R. to Govt. in Council should
omit the word 'then' & use
'granted'. In line 8 of the
patta 'on the other hand' should
be changed to 'and' 'in entirety'."

Para 8. In line 1 of the patta
"settlement" should be changed to
"the transfer" and substitute the
word "registration of private
possession lands in the name
of tenants". In line 3

This is the correct view & it
should be so stated. C. H. H.

For "patta issued for" should be
"registered of" - & in line
5 for "issued in the name
of" should be "shall be
issued in the name of the person to
of the person to"

In the last clause of Para 8
the word "revenue" should be
omitted before "settlement"
in line 2. J. H.

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"registration being to fix the
"responsibility for the recovery
of the state".

The words "are not valid"
in the Courts" are taken
apparently from para
3 of Regulation XXVI of 1802,
but ^{these words} had better be omitted
as the recognised law on the
subject is that registry by
a Collector cannot confer
a title and conversely want
of registry cannot take
away a title to landed
property: and that un-
registered transfers are in-
valid only as against Govt.
The whole of this para.
may it is thought be recast.

II As regards the survey.
(1) The Board suggest paras.
3 and 4. that both the survey
and demarcation of
forest & hill tracts
with reference to the
Gauami estates to
which they belong should
be carried out now by the
Madras survey in
view to the registration
of

of Gannam titles at the time of settlement.

This may be approved.

(2) The Govt. may concur in the view expressed in para 5 of the Board's Proceedings.

(3) As to the question whether the lands are to be classified into wet garden & dry or only into wet dry, it is submitted that for the reasons stated in para 6 of the B.P. the Board's threefold classification may be approved.

(4) The limits of area proposed in para 7 may be approved.

(5) The Board does not say (para 8) to what extent the survey of Wynad will need revision for purposes of the revision of settlement. The Board may be asked to report on this point in consultation with the settlement officers.

(6) As regards the details of demarcation orders have to be passed only on two points namely

24/

Agree with W. Stuart
that with the B.P. - he
is in the vicinity of the
boundary between the two
assessments of L. & recorded.
He does not remember any
detailed survey having
been made details except
topographical ones to survey.
but these must be done
the L. is recorded & blocked
at in large blocks.

Yes.

24/

24/

Land included began with W.
Dunlop - but if freedom on
land of the area it will be
easy to add the area to dry
so that it will be the complete
classification. 24/

Then limits are intended to apply
mainly to cases of clearing of
Jannai - when a tract has
been then the prescribed limit of
1000 sq. yds. land is necessary
to divide the land into fields
of 6 x 12 acres respectively.

The property of each Jannai, however
small must be separately demarcated
and for this purpose the large
area and blocks are standing in
the names of more than one Jannai
must be subdivided. This is not
likely to entail much difficulty
more.

24/

Don't think any further to be said

24/

24/

namely those reserved to
in paras 10 & 12 of the B.P.
In regard to these the Govt.
may express concurrence
in the views expressed by
the Board with the remark
that the words "whose
position in Malabar is the
same as that of the Pattadars
in other districts" objected
to by the ag. Collector do
not occur in Rule 6 as
printed in the B.P.

43/24/24/ In para 11 of its Prop.
the Board says that "under
the altered arrangements
now to be carried out by
which the settlement is
to be made with the Govt.
- mis, it would save un-
necessary complication
if the occupants (Pattadars)
Govt.
of Gannam lands are
induced to accept a re-
description of the Gannam
- bhagam payable on
such lands on the terms
prescribed in G.O. dated
2.8.89 No. 659."

There is no necessary
connection

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Connection bet. the altered arrangements referred to and the redemption of Goumabhogam and the Board does not point out the course to be adopted to induce the pottadars to accept a redemption. This proposal of the Board is with reference to Mr. Du merque's remarks in paras. 8 & 9 of his letter of 16.3.92 (page 7 of the Current) in which he attempts to correct Mr. Stuart of an extraordinary misapprehension of Malabar Land Revenue. There appears to be no point worth noticing in Mr. Du merque's remarks, and Mr. Stuart's statement that the tenants of Gout: Goumam lands are practically ordinary ryotwari holders under Gout: is practically correct.

44/8 The instructions issued in para: 13 of the B.P. may be approved.

45/5 The Board's remarks in para: 15 appear to be inconsistent. It says in the

For not with respect to the Board's proposal as it will create unnecessary complication. Ch.

JH

JH

(vide para 5 III supra).

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119-120

the penultimate sentence that instead of the two separate Col. one to show the name of the tenant (pottadar) and one that of the goumi it would prescribe a single Col. to show the name of the registered goumi or his recognised representative, but in the last sentence it goes on to say that where the goumi desires that the tenant should be registered as the pottadar the latter will be entered as the representative of such & such goumi. If this means that the names of both the pottadar & the goumi will be entered in the single Col, the former as the representative of the latter, it is better to enter their names in two separate cols.

But if the Board means that it will suffice to enter the pottadar as the representative of the goumi, but it will be better to have a separate column for each certainly. Ch. If the Board means that only one name will be entered namely the pottadar's, it would be impossible afterwards to

assessable Col. for the goumi's share is of the essence of the scheme JH

to know whether the person whose name is entered is a Gaurami or only a tenant and this would lead to considerable difficulty,

The Board says that the retention of these two separate Cols. under the altered settlement would be somewhat misleading. The Board does not say in what way. In fact Board's arrangement is inconsistent with ~~the~~ ^{one} of the declared objects ~~of the new arrangement~~ ^{of the new arrangement} which is to recognise the Gaurami as the landholder and to register his estates in his name,

just
24/11/12

Moreover a Gaurami may change his tenant and request that his new tenant should be entered as the Pattadar. It would be impossible to accede to this request if the Gaurami is not registered. The Board's proposal seems to amount to ~~conferring~~ ^{giving} on the Pattadar the rights of a Gaurami. This is not contemplated by

yes
11/11/12

24/11/12

Submitted that the Board may be informed that both the Cols. must be retained. The draft Proclamation does not require any change on this account - vide 5(c)

46/

Para: 16 of the P.P. para 5 II 1/4

The question raised in this para has already been dealt with. As observed by the Board there is really no difference bet. Mr. Duvergne's and Mr. Stuart on the point though the former appears (para: 5 of his letter dated 4.3.92 vide page 12 of the Current) to have misunderstood the latter (para: 5 of Mr. Stuart's letter dated 17.2.92 - vide page 15 of the Current).

What the latter ^{means} ~~says~~ is that the word 'occupation' entered in clause (g) & (h) of para: 5 of the draft notification proposed by him for Malabar - Wynad may be retained as that was ^{repres}

5469
Para 3

may represent what is intended by Govt: though the word used in para 12 of G.O. dated 3.12.91 No: 1152 is "Cultivation".

47/ Para: 17th P. It is observed by the Board in this para: no notice need be taken of Mr: Duvergues's remark regarding the defects & errors alleged to exist in the Wynad settlement Register.

48/ P. No: 5182. This current raises no question which has not been considered in connection with the current dealt with above. The draft Proclamation submitted with the current will be revised in accordance with the orders passed on the questions raised in connection with C. No: 6523.

21/1. I have dealt with the same question raised in original
3/6

100 103/107
Notes on the most convenient land
The main question to be raised
are whether the whole of the land
the wetlands belonging to the
Jannai is to be ~~changed~~ changed
with the settlement, which in the
fact the case of the Settlement
by the work system whether
it is occupied for cultivation or
not, and if not how 'cultivation'
which will under the settlement
liable to pay the assessment is
to be depicted.

As regards the first question it has
been already decided by Govt. that
now that the assessment should be
based on the basis of land which
are not occupied for the purpose
of cultivation. This decision is
in accordance with the ^{the} ~~unimproved~~ ^{unimproved}
usage of the District and the
historic recognized incidents of
the land tenure of Malabar and
is reiterated, I think, by the terms
of the Proclamation of 1805,
which, rightly or wrongly, is re-
garded by the landholders of
Malabar as the Charter defining
their rights. It is true that the
Proclamation is not now in force.

any mention of the treatment of
the waste. ^{here} must be
sent into the Revenue Commission
of 1803 which is the basis
copies of the proposed settlement
to be adopted subject to the approbation
of the Revenue Board & with the
agreement of the Rajah &
Principal Landholders agreeing
with the principles therein embodied,
Clause 4 of the Regulation 1803
states that "The principles &
rates above specified being favorable
to all parties of the Revenue
Board agree that they shall be permanently
fixed on all lands now in a state
of production & applied, according to the
usage of the country, to lands or
waste lands which may hereafter
be brought into cultivation."
The agreement was approved by
the Board of Revenue & a proclamation
was issued in 1805 which rec-
ites that the Rajah & ^{heads} ^{of the}
^{Rambooris} have consented to the settlement
concurrent in accordance with the
principles thereby determined & that
the Revenue Board & that the
Rajah & the Principal Landholders
the Rajah & the Principal Landholders.

The proclamation is to
be found printed on page
19 of S.O.D. 18 April 1805
No 457.

has formally and finally
been settled in favor
of the Revenue of the Government
and the Revenue Board &
published. The mode of
cultivating dry land was
declared in the terms agreed
but nothing was said about
the extent of waste until the
under cultivation. I do not
understand that this is a legitimate
ground for this measure. The
State is bound to itself to
right to tax the waste, as an
important condition was
herein expressly mentioned
& a revenue for nearly 90 years
the usage of the country being
that the waste has been
respected. However as the
Sir H. R. Stokes pointed out in his
letter of the 8 June last the pro-
posal to tax the waste "is ab-
solutely inconsistent with the
policy of the Land Revenue" which
is that the State demand repre-
sents a share of the crop. It
is mainly correct to this that the State is to receive a limited share of the
crop as well as the Revenue is a share of the
crop. It is everywhere. The principle of
Amirawaram are strictly analogous. Lastly there is the condition
that

This does not apply to
Kachar - where, as
the Proclamation shows
the State divides the
landlord's share with
him.

It mainly comes to this that the State is to receive a limited share of the
crop as well as the Revenue is a share of the
crop. It is everywhere. The principle of
Amirawaram are strictly analogous. Lastly there is the condition
that

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convinced, however, by Mr. Stuart's arguments, and have made their single proclamation applicable (with certain important limitations) to the two Wynaad taluks as well as to Malabar proper, but I agree with Mr. Stuart that it will be better to keep the two matters separate.

4. The issue of these proclamations is a very important event and I take the opportunity of their publication to raise the question of the liability of all janmis in Malabar to pay assessment on all the culturable waste lands in their occupancy when they have been surveyed and assessed, and the expediency of imposing and levying a small occupation cess or fee in lieu of such assessment.

5. I was not aware, till going through the voluminous file of papers circulated with the Board's Proceedings under disposal, that this question had been raised so far back as 1857, by Mr. (afterwards Sir William) Robinson in a very interesting report, dated 22nd August of that year, which he wrote on the Wynaad when he was acting as Collector of Malabar. In paragraph 46 of that report he said:—

"Survey and Settlement.—The remedy "for these difficulties is obvious and I "consider that it cannot be too early "applied to Wynaad from which it ought "to be spread throughout Malabar, viz., "a thorough survey-settlement and "valuation of the land of the taluk." "The country ought at once to be sur- "veyed and mapped, all the titles care- "fully ascertained and registered; the "land should also be carefully valued "and laid out in convenient revenue "lots and assessed on this valuation to "an uniform and very light land revenue "demand, and on the same data a pro- "prietor's fee or permanent rent-charge "should be fixed on all land. A proprie- "tor's fee ought to be fixed which "should not be exceeded nor should the "land any longer be resumable when "cultivated by private individuals as "long as the rent-charge is duly paid." In the margin he added "This is a diffi- "cult point without legislative enactment," "but the prosperity of the country "depends upon it."

6. In a previous report, written a few days before this one (dated 5th August 1857) on the subject of the then recent attempt to frame accounts, showing the individual holdings of each revenue payee, after expressing his opinion of the

utter worthlessness of the Revenue accounts of the district, Mr. Robinson strongly urged the need of a survey of the district and said that "the assessment of hill "and forest land is a matter pressing for "early solution and could not be grappled "without accurate survey-settlement." He was an officer who had served many years in Malabar and knew the country and its people and tenures well, and his opinion is entitled to great respect.

7. The Government passed orders on Mr. Robinson's report in 1859, ordering the immediate commencement of the survey of the Wynaad, which it has, however, taken some 30 years to carry out to completion. The consideration of his proposal relative to a rent-charge on janmis' waste land was deferred.

* Board's Proceedings, dated 13th October 1885, No. 2869.

8. In 1885, the Board of Revenue,* in reviewing Mr. Stuart's and Mr. Logan's reports relative to the revenue settlement of Wynaad, proposed that janmis in Malabar should be made to pay something, however small, on all culturable waste in their own possession. Mr. Logan had raised the question in his report, but was opposed to doing so, because "one pie per "acre per annum would be more than any "janmis or other occupants could bear to "pay without being under the necessity "of relinquishing their rights." This statement he repeated, with a slight modification, almost immediately afterwards in the same report, saying that "a tax of even "one pie per acre per annum is more than "many janmis and other occupants could "afford to pay on the immense tracts " (hundreds of square miles in many in- "stances) of wild, jungly, unproductive "land in their occupation."

9. The Government, in passing orders on the Board's Proceedings (in G.O., dated 22nd July 1886, No. 611, R.D.) somewhat misapprehended the Board's proposal and rejected it. They said: "The "Government are unable to accept the "Board's proposal that all culturable "waste land belonging to janmis should "be assessed to land revenue. The land "revenue is the Government share of "the profits of cultivation and cannot "fairly be assessed on land which is un- "occupied and which nobody wants for "that purpose." But what the Board proposed was that the janmis should pay something, however small, merely as a tribute to the State for protecting them in the possession of their property.

10: I now again raise the question, for I consider that the Government Order of 1886, above quoted, was wrong in two respects, firstly, in the construction it put on the Board's proposal (which is, however, not very material), and secondly, in asserting that the land revenue is the Government share of the profits of cultivation and that, in respect of the waste land belonging to Malabar janmis, it cannot fairly be assessed because it is unoccupied.

11. It is impossible to deny that Malabar is a ryotwari district and that the revenue settlement of it is a ryotwari one, and I assert that the principle on which the land revenue is assessed and collected throughout the whole Presidency, in ryotwari tracts, is that a man must pay the assessment on all the assessed land *in his occupancy* which is entered in the revenue register in his name, whether he cultivates it or not. In bad years when the water-supply for irrigation fails, or when large areas of country lose their crops, remission of the demand may be given by Government as an act of grace, but apart from this the invariable rule is that a man has to pay for all the lands in his patta whether he cultivates them or not. In fact, the test of liability to pay assessment is *occupancy*, not the *fact of cultivation*. In other words, private property in assessed land makes it liable to pay the land-tax assessed on it as revenue. The proofs of this are abundant and convincing. One has only to turn to any jamabandi report of the Board of Revenue and see how much land is entered as "waste charged." The last report issued is that for fasli 1300, and this shows that out of 21,141,000 acres of land occupied throughout the Presidency, only 17,822,000 were cultivated and the rest, 3,319,000 acres, left waste, and that of this waste area no less than 3,183,000 acres were charged with land revenue. Out of the above totals, 902,514 acres are shown as the total area occupied in the district of Malabar, and of this area no less than 63,303 acres (or about 7 per cent.) were left waste but paid the land-tax assessed on them as revenue. This shows, beyond dispute, that the assertion in the Government order quoted by me that the land revenue is the Government share of the profits of cultivation, though supposed to be true theoretically, is anything but correct as a matter of fact or practice. As to the unfairness of assessing waste land belonging to janmis in Malabar, because it is unoccupied, the statement as to its

125
5
being unoccupied is incorrect, and the unfairness consequently disappears. For, all land in Malabar (with the exception of Government escheats) has always been, and still is, admitted to be private property, and all private property must belong to somebody and be in somebody's occupancy or possession as owner, tenant or assignee, and as a matter of fact all land in Malabar belongs (with the exception noted above) to the class of owners known as janmis. Therefore, there is no such thing as unoccupied land in Malabar except waste escheats. It is all occupied, and as such, as I have shown above, it is liable to pay land-tax according to the principles of the ryotwari settlement prevailing throughout the Presidency. But Malabar has never been scientifically surveyed or settled. No cadastral survey has ever been carried out in any part of the district until recently, and consequently none of the great areas of waste private property have ever been registered in the land-revenue registers and assessed to land revenue, as they ought to have been, until the recent survey and settlement of Wynaad, and I therefore maintain that every acre of culturable waste in the possession of the janmis of Malabar should, now that a new survey and settlement of the district is about to be carried out, be surveyed and assessed by the acre in large blocks or survey fields (as has been done in Wynaad) and, when the areas are known and the assessment is fixed, the whole of such land is fairly liable to pay the assessment fixed upon it.

12. I do not propose, however, that the full assessment should be at once levied, because it would be a novel impost which might tell, somewhat severely, on a few of the biggest janmis in the district; and because a 6 pies per acre rate is what some of their tenants pay for their waste lands. I propose, therefore, that an occupancy-fee of 6 pies per acre should be levied on all waste land in the possession of janmis which is capable of being cleared and cultivated, but when the janmi cultivates any of the land himself or sublets it for cultivation or any other beneficial enjoyment, then the full assessment should become payable on the area so cultivated or sublet, in place of the occupancy-fee. This proposal is embodied in the proviso to rule 5 of the draft rules appended to Proclamation No. 1 as modified by me. I have the less hesitation in making this proposal because the Madras Government of 1886,

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with what I consider was inconsistency, after denouncing (in the Government order already quoted) the unfairness of levying assessment on unoccupied land belonging to Malabar janmis, on the ground that the land revenue is a share of the profits of cultivation, in another paragraph of the very same Government order directed that in the case of estates, such as coffee-estates, sub-rented from janmis, a rate of Rs. 2 per acre should be charged on the cultivated portions and 6 pies per acre on all the waste. This direction was repeated in another Government order about a month later (G.O., dated 27th August 1886, No. 741), in which His Excellency in Council directed that all land in estates "which is under cultivation at the time of the settlement shall be assessed at Rs. 2 per acre, while the uncultivated portion of such estates shall bear an assessment of 6 pies per acre." This rule has been in force ever since. But, I would ask, why should a janmi be excused from paying a 6 pies per acre fee or tax on the waste land he keeps in his own possession, if it is assessed at that rate at least (and under the waste land rules at a much higher rate) even if not cultivated, directly it is leased to a tenant? Is that justice or fairness? Is it any reason for exempting the janmi that he has a hundred or a thousand times as much waste land in his possession as his tenant?

13. There is no doubt that the Government devised this system for Wynaad as a method of levying a consolidated assessment on estates held from janmis, of which part only was cultivated and part waste, in order to do away with the previously existing and troublesome system of charging on the actual extent cultivated as ascertained by annual inspection and measurement,* but this fact does not make their action less inconsistent in regard to the waste land occupied by the janmis themselves.

14. These estates had previously been charged only 2 rupees an acre on the areas actually cultivated, but the Government, not content with the above modification in the method of assessment, ordered (in the Government order quoted above in the margin) that "estates hereafter opened" "on private land might be charged the same rates, on the whole extent of forest and grass as are now in force under the waste land rules." In other words, planters and others now taking up land

* Vide G.O., dated 17th September 1884, No. 1049, R.D.

** I have also ascertained from a gentleman in Wynad, who is a planter, that this is a fact.*

for coffee-estates from janmis will have to pay 2 rupees an acre for forest and 8 annas an acre for all grass land, whether they cultivate it or not. This, at least, is apparently the rule under the notification relative to the revenue settlement of the Wynaad, approved by Government in G.O., dated 27th August 1886, No. 741, R.D.* But, if this procedure is not unjust or oppressive in respect of an English planter leasing a comparatively small area of waste land from a janmi, why should it be unjust or oppressive when applied to the janmi himself in respect of the remaining large extent of equally culturable waste he retains in his own occupancy? Of the two men, the one who, on grounds of public policy, is most entitled to lenient and sympathetic treatment at the hands of the State is assuredly the planter, who spends money in developing the soil, rather than the janmi, who keeps it lying idle, because he is not made to pay anything for doing so. At this moment there is a large tract of forest land (known as Kanath), in the vicinity of the Periya ghât, leading from Tellicherry to Wynaad, which has been advertised for sale by the liquidator of an English firm on the West Coast, as being nearly 1,000 acres in area and held under Government in perpetuity at a rental of 8 annas per acre. The Forest Department have obtained permission to bid for the land if the title is good. From the terms of the advertisement, if they are correct,* it would appear that if an Englishman holds forest waste under Government in Malabar he has to pay 8 annas an acre per annum for it. It is stated that a small portion of the land (some 80 acres) has been planted with pepper and other plants, but if an Englishman is made to pay 8 annas an acre on his waste forest as an attorning fee to Government there is no obvious reason why a janmi should not pay the same, and certainly no reason, that I can see, why he should pay nothing.

15. It is true that janmis in Malabar have never paid any fee or assessment in respect of their waste lands since the introduction of the first revenue settlement in 1805, but that is because the lands have never been surveyed and their area being thus unknown it has been impossible to assess them. This was pointed out by Mr. Robinson 35 years ago (*vide supra*). This long exemption from taxation which they ought to have paid is put forward in the office-note on the Board's Proceedings under disposal, as a reason for not levying

* I have since ascertained from the Collector of Malabar that this property is a Government escheat; and was leased on cowle to the English firm in question, for 4 years rent-free and afterwards subject to the payment of 8 annas per acre as janmi-bhogam, in addition to such tax as now is, and hereafter may be, imposed by Government on similar lands, according to the description of produce raised thereon; the right to minerals being at the same time reserved. These terms are not thought too severe for an European to pay, but all native janmis are allowed to own as much forest land as they please without paying a farthing for it.

anything from the janmis now. But so far from being a reason for letting them off I look on it as one of the strongest reasons for levying assessment or a fee from them now. That they have no prescriptive right to exemption has been clearly laid down by the Allahabad High Court in the appeal suit of the Secretary of State *versus* Ram Ugrah Singh and others, reported at pages 140 to 147 of Volume VII of the Indian Law Reports (Allahabad Series). The Court there held that a title to hold land free from assessment to revenue cannot be acquired by any length of possession revenue-free, as limitation cannot be pleaded against the right of the State to assess such lands. The legal right of the Government to levy assessment on these lands is therefore indisputable.

16. I will now notice Mr. Logan's reasons for being opposed to the levy of any occupancy-fee. These are, first, its impracticability, and second, the ruinous hardship with which the fee or tax would press on the janmis of Malabar.

17. As to the first point Mr. Logan says in paragraph 16 of his letter printed at pages 28 to 43 of the Revenue Board's Proceedings, dated 13th October 1885, No. 2869, "would it be possible then to "tax the janmi on all the uncultivated "lands in his occupation? I have said "above that this would be impracticable." The only argument I can find in the preceding paragraph of his letter is the following sentence in paragraph 13: "If "we propose to exempt all janmis from "an occupancy cess—the only practi- "cable scheme in my opinion—then on "what principles can we justly propose "to tax the occupancy of a planter or "cultivator who has obtained from the "janmi an extent of land which he "means gradually to open and culti- "vate as his capital and opportunities "permit?" and pursuing this argument he says in paragraph 15: "A planter "obtains a conveyance of (say) 1,000 "acres of land for coffee; he knows, "at the starting of his enterprise, that "even under the most advantageous "circumstances it will take him several "years to open up the whole of the "block; nevertheless he is willing to "make an outlay of a portion of his "capital in buying from the janmi the "exclusive right to enter upon and "cultivate the whole block. And why?" "Simply because he does not wish to "have any intrusion in his own schemes;"

"it is an experiment, to a great extent, "how much of the block will really be "fit for coffee; he foresees that some of "his clearings will have, perhaps in a "year or two, to be abandoned; he "knows that to profitably employ his "capital he will require additional land "to replace such abandonments. Even "if all goes well with his clearings and "he has to abandon most of them, he "may see his way in future years to "employ more capital in the opening up "of more land. All such forest clear- "ings to be worked economically and "profitably ought to lie within a ring- "fence, so to speak, and so for these and "for endless other reasons, he decides "that he must have the exclusive right "of entry and cultivation on his block "of 1,000 acres. Much of this will "necessarily lie idle for many years." "Why should he be taxed for it any more? "than if it remained in the janmi's hands?" "He obtains nothing more from it than "the janmi would obtain if it was still in "his hands. On the contrary, he is a "loser by it to the extent of the interest "on the sum which he expended in "obtaining the conveyance of his exclu- "sive rights in it from the janmi. The "janmi is the gainer, if any one is, and "yet it is not proposed to tax him."

18. In paragraphs 17 and 18 of this letter, however, Mr. Logan advances some reasons for his belief that "many and "most perplexing would be the questions "raised as to who should pay the occu- "pancy cess on lands yielding no produce "at all." I cannot see why this should be, for while the janmi is in possession of the lands as waste he pays the cess, but if he transfers the possession to a lessee, mortgagee or assignee the latter will have to pay the Government assessment and no cess will be levied at all, and I think the lessee or mortgagee may be trusted not to take over the land on these terms unless he sees his way to getting some produce or profit from it. It is true that the case may be conceived of a mortgagee for 12 years throwing back his land on the janmi's hands and foregoing the kanom amount, after practically exhausting the improvements of the land, but such a case would probably be quite exceptional and would be met equitably by treating the land as waste when it so lapsed to the janmi, provided he derived no profit from it. There seems to me to be nothing impracticable about such an arrangement.

19. As to the second objection, which is contained in paragraph 30 of the above letter, Mr. Logan formulates it in these words:—

"Moreover, the area of land yielding "no produce at all is very large . . . "the fact remains, as I have said above, "that a tax of even one pie per acre per annum is more than many janmis and "other occupiers could afford to pay on "the immense tracts (hundreds of square "miles in many instances) of wild, jungly, "unproductive land in their occupation."

20. Mr. Logan served, I believe, nearly the whole of his service in Malabar. He consequently knew the district very well and the voluminous reports he has left behind him, as well as the Manual of Malabar, bear abundant testimony not only to his great ability and energy, but also to the deep interest he took in the district with the administration of which he was so long connected; and yet, as I shall now proceed to show, the expression of opinion above recorded by him is, most probably, very exaggerated and inaccurate. There is this, however, to be said for Mr. Logan in this respect; if he formed wrong conclusions they were, in all probability, based mainly on the district revenue accounts which the recent survey has proved to be most inaccurate. At least, I cannot conceive any other basis on which he could have formed them, and in that case these accounts are more to blame than he is.

21. To his first statement that the area of land which yields no produce at all is very large, I take exception. He probably meant by it that it was not cultivated with the plough or spade, and so yielded no crops, and in this sense the statement may be correct enough, but in the broader sense, that the land is worthless as being unproductive and not bringing in any income to its owners, the statement is misleading and inaccurate. Most of the land is covered with forests, some of which are very valuable, and bring in considerable income to their owners from the timber and other produce which they yield, to say nothing of their actual and potential value for coffee-planting and cultivation. The deer forests of Scotland do not produce crops, but they bring in large rentals to their owners and in this sense are anything but unproductive and I should imagine are certainly not exempted on that ground, from the payment of any land rate which may be assessed

on productive land. The Kolar gold-fields comprise a few square miles of wretchedly poor stony soil, of which hardly an acre is cultivated, but for their area they are probably by far the most valuable lands in the whole State of Mysore as producing the largest revenue per acre in the shape of royalty on gold.

22. The next statement as to the ruinous effect of a tax of even one pie per acre on all the waste lands in the occupation of janmis must, I think, have been based on the statistics appended to his own report as Special Commissioner on Malabar Land Tenures in 1881-82. At page lvii of Volume I of the above report Mr. Logan gives the following statement of janmis in the Malabar district:—

STATEMENT showing the number of janmis (principal and minor) of Malabar.

Taluka.	Minor janmis.	Principal janmis.	Total.
	No.	No.	No.
Chirakal	4,650	42	4,692
Kottayam	349	32	381
Kurumbanad	3,109	66	3,175
Wynaad	343	26	369
Calicut	4,852	68	4,920
Ernad	1,387	113	1,500
Walawanad	2,152	179	2,331
Palghat	8,319	96	8,415
Ponani	3,424	219	3,643
Cochin	50	..	50
Total	23,635	829	24,464

N.B.—Only those holding at least 100 pieces of land in any one amsam are classed as principal janmis.

* As these statistics were compiled about 4 years after Nilgiris-Wynaad had been separated from Malabar-Wynaad, these figures apparently represent the number of janmis in Malabar-Wynaad alone.

At page lix he also gives a statement of 250 of the chief devaswams, or Hindu temples, which are also janmis possessing not less than 100 pieces of land in a single amsam, so that the total number of such principal janmis is 1,079. I have not been able to find out what is the maximum or minimum area of "a piece of land," but I find at page lvi of the same volume that the Zamorin Raja (who is the biggest janmi in all Malabar) is stated to own more than 100 pieces of land in 27 amsams, and at page lv Mr. Logan says of him: "It is, however, unfortunate "for him, and the same remark holds "good of all the big landlords, that his "property is so scattered in little bits "over the face of the country that he "himself can exercise only to a very small "extent any personal control over the "enormous mass of details of land man-"

"agement with which his subordinates" "have to deal." I, therefore, conclude that the majority of all such "pieces of land" are of small area.

23. In Volume 2 (Appendix XVI) of the same report is a comparative statement of area, revenue, population, cultivation and labourers in Malabar, compiled apparently from the village revenue accounts and the census returns of 1871. This gives the following figures:—

Total area of district	...	...	ACS. 5,555,807
Of this—			ACS.
Area { Assessed...	790,746		
cultivated { Unassessed...	336,434		
Area culturable but uncultivated ...	2,558,867		
Area unculturable ...	1,869,760		
			5,555,807

If the above figures were correct, the area of the district would be 8,631 square miles, but the Superintendent of Revenue Survey has kindly informed me that the area of the district, scaled from the atlas sheet (which is the nearest approach to exactness at present obtainable), is only 5,677 square miles = 3,631,280 acres, so that Mr. Logan's figures are wrong by about 3,001 square miles = 1,922,560 acres. This is a very considerable error. Any conclusion, therefore, as to the areas of waste lands possessed by janmis, based by Mr. Logan on these figures, must be greatly exaggerated and consequently worthless.

24. There are nine taluks in Malabar, and of these, three, namely, Malabar-Wynaad, Palghat and Walawanad, have been scientifically and cadastrally surveyed with the exception of certain large areas of hill and forest in the two latter taluks. So also has the Nilgiris-Wynaad which, for the purpose I have in view, I regard as part of the Wynaad plateau, to the whole of which the proposed proclamation is to apply. The recent survey of the two Wynaad taluks (Malabar-Wynaad and Nilgiris-Wynaad) shows their areas to be as detailed below:—

	SQ. MLS.	ACS.
Malabar-Wynaad	821.20	= 525,576
Nilgiris-Wynaad	240.13	= 153,687
Total	1,061.33	= 679,263

The above area belongs to Government and to private janmis in the following

proportions (*vide* Revenue Board's Proceedings, dated 14th September 1888, No. 498 and 9th July 1889, No. 343):—

	NILGIRIS-WYNAAD.		MALABAR-WYNAAD.	
	To Government.	To private janmis.	To Government.	To private janmis.
Dry and wet land { Occupied ..	ACRES. 18,249	ACRES. 39,496	ACRES. 51,145	ACRES. 106,954
{ Unoccupied ..	17,839	15,155	112,252	118,421
Reserved forest	13,885	46,639	129,403	..
Poramboke	1,558	866	7,401	..
Total ..	51,531	102,156	300,201	225,375
	153,687		525,576	

25. In the Nilgiris-Wynaad taluk there are only five janmis and the 102,156 acres shown above as belonging to them is distributed among them as shown in the subjoined statement, kindly furnished to me by the Superintendent of Revenue Survey and compiled from the printed settlement registers of the taluk:—

Janmi's name.	DRY AND WET LAND.		Forest leased to Government.	Poramboke.	Total.
	Occupied.	Unoccupied.			
1. Wandur Nambudripad	ACRES. 1,222	ACRES. 1,638	ACRES. ..	ACRES. ..	ACRES. 2,860
2. Nelliyalam Ansu	8,855	336	..	..	9,191
3. Devala Moyar Gold Mining Company ..	999	..	..	..	999
4. Nilambur Tacharakoil Tirumalpad ..	28,360	13,181	46,639	866	89,046
5. Kunnakammattil Pankunni Panikker ..	60	..	..	..	60
Total ..	39,496	15,155	46,639	866	102,156

Now, a glance at the above figures shows that of these five janmis, by far the biggest land-owner is the Nilambur Tirumalpad, and that out of the 89,046 acres owned by him; 46,639 acres of forest (known as the Mudumalai forest) have been leased to Government. From this lease he derives an annual income from Government of Rs. 4,500 besides a stump fee of one rupee on every mature tree felled. Another 28,360 acres have been leased out by him or are cultivated by himself. Of this area, 24,402 acres are occupied as tea, coffee or other estates, so that, leaving out of consideration the 866 acres of poramboke (unculturable) land possessed by this janmi, he has only 13,181 acres which would be liable to the occupation-fee on culturable waste lands, and even this area would have to be considerably reduced, because within the last year or so a further area of 1,600 acres of forest, (called the Kombalollai forest) has been leased to Government. Thus he has only

11,581 acres of culturable waste land in his own occupancy. On this area a cess or fee of one pie per acre per annum would amount to Rs. 60-5-0 or about 5 rupees a month. Of the other four janmis, two would pay nothing as they have no waste lands in their own hands, while the other two would have to pay, at the above rate, Rs. 8-8-6 and Rs. 1-12-5 per annum, respectively, and supposing the fee or cess was 6 pies per acre, the sums payable by these three janmis would be only the following:—

	RS.	A.	P.
By the Nilambūr Tirumalpad ...	361	14	0
„ Wandur Nambudripad ...	51	3	0
„ Nelliyaam Arasu ...	10	8	0

What hardship, I would ask, would it be that the Nilambūr Tirumalpad should pay to Government the comparatively small sum above specified out of the annual rental of Rs. 4,500 which he gets from Government for the lease of a large area of those forests which Mr. Logan has described as “yielding no produce at all,” in return for the security afforded to his life and property by the State now and ever since the beginning of the century? These waste lands have been surveyed and assessed at rates varying from 8 annas to 2 rupees per acre, and if the full assessment was levied from the owner on every acre of waste he keeps in his own hands it would be no greater injustice than treating him like an English coffee-planter, though possibly a rather serious burden on him.

26. For Malabar-Wynaad I have not been able to get the same detailed information as for Nilgiris-Wynaad, but assuming that Mr. Logan was correct in saying that there were 369 janmis in Malabar-Wynaad, then, dividing the 118,421 acres of unoccupied private janmam land in the taluk among them, and assuming the whole to be culturable, it gives each an average area of 320 acres, which at one pie per acre per annum would involve a payment by each of them of Rs. 1-10-8 annually. At 6 pies per acre it would amount to Rs. 10 a year each. To call this taxation ruinous is simply ridiculous. Of course, the figures are merely averages and it may not be the case that any of the minor janmis have unoccupied waste in their possession, but even if the whole 118,421 acres of culturable waste in the taluk is supposed to belong solely to the 26 principal janmis in it (an extreme assumption), the average area possessed by each

Revised * In calculating this ratio, I have omitted the 46,639 acres of forest land to Government, which would, if leased out now to an English planter, be liable to pay the Government an assessment varying from Rs. 2 to 8 annas per acre as occupied land besides the rent to the janmi. This, of course, slightly affects the ratio of waste in the whole of the Wynaad, reducing it from something less than $\frac{1}{4}$ to about $\frac{1}{5}$, or by about $\frac{1}{4}$.

	sq. mls.
Chirakal taluk ...	648
Kottayam do. ...	462
Kutumbianad taluk ...	538
Wynaad taluk ...	821
Calicut do. ...	339
Ernad do. ...	811
Ponani do. ...	482
Walawanad taluk ...	963
Palghat taluk ...	613
Total ..	5,677

would be 4,554 acres and the fee on this would be only Rs. 23-11-6 at one pie per acre, and Rs. 142-5-0 at 6 pies per acre.

27. The figures given in paragraphs 25 and 26 *supra* show that the ratio of culturable waste which is the property of janmis, to the area of the whole taluk, is in Nilgiris-Wynaad, about $\frac{1}{10}$ * and in Malabar-Wynaad between $\frac{1}{4}$ and $\frac{1}{5}$ and of the 2 together rather less than $\frac{1}{4}$, and as the Wynaad is, I believe, the most jungly taluk of Malabar and is the only one which has been completely surveyed, I shall probably be rather over than under the mark in applying the Wynaad ratio of culturable waste (taking it at $\frac{1}{4}$ of the whole area) to the rest of the district.

28. The areas of the different taluks have been kindly scaled for me by the Superintendent of Revenue Survey from the atlas sheet and are approximately as shown in the margin. Deducting from the total area of 5,677 square miles the area of Wynaad, the culturable waste in the whole of the rest of the district would be $\frac{4,856}{5} = 971$ square miles or 621,440 acres, which, at one pie per acre per annum, comes to Rs. 3,236-10-8. This sum divided among the 24,545 janmis in the 8 taluks (exclusive of Wynaad, but inclusive of the 250 principal Devaswam janmis) comes to the petty sum of 2 annas 1 pie each, at one pie per acre per annum, and if a 6 pies per acre rate was levied it would only come to 12½ annas each, on the average, per annum! But, by again adopting the extreme assumption that it is only the principal janmis that have any culturable waste in their possession the figures work out thus: 1,053 principal janmis would own on an average 590 acres of culturable waste each and would have to pay Rs. 3-1-2 per annum each at one pie per acre and Rs. 18-7-0 at 6 pies per acre. Such taxation cannot be called in any way ruinous or oppressive. These figures, again, are only averages, and, while in the cases of the biggest janmis in Malabar, such as the Zamorin, the Chirakal Rajah and the Kadatanad Rajah, the sums payable would be considerably in excess of the average, in those of most of the rest they would probably be below it. In any case, when the survey and settlement of Malabar are completed, I think it will be found that the actual average will work out to be less than what I have taken it as likely to be. I consider, therefore, that the actual figures of Wynaad and the above esti-

mated averages, based thereon, justify me in saying that Mr. Logan's statement regarding the ruinous effect which the institution of an one pie per acre occupation-fee would have on the "many jannis," who own "hundreds of square miles" of waste lands, will most probably prove to be very exaggerated and inaccurate.

29. It may possibly be objected to my proposal that it is revolutionary, unjust or oppressive, and that it is inconsistent with the theory of the land revenue and with the facts of its administration in Malabar. I deny, however, that it is revolutionary, in the sense of being likely to create discontent or disorder, for I believe that none of the Malabar jannis, when they see how greatly the new revenue settlement and the registry of jannis as owners will tend to improve the titles to their lands, and consequently increase the value of those lands themselves, will raise any serious objection to paying the small fee I propose, or even a much larger one, especially when they understand that they can escape the payment altogether by sub-letting their lands. I have served for some years in Malabar myself and know something of the country and people, and my opinion on this point is therefore entitled to more weight than those of persons who have never lived or served in the district. As to the injustice or oppressiveness of the fee, what I have already said in the preceding paragraphs of this Minute proves, I think, with sufficient clearness, that the fee is not likely to be at all oppressive, neither will there be any injustice in its imposition; while, as to its being inconsistent with the theory of the land revenue and with the facts of its administration in Malabar, I have shown clearly that the exact opposite is the case, for the facts connected with the assessment and collection of the land revenue in Malabar, and all over the rest of the Presidency, are by no means consistent with the so-called theory of the land revenue and amply justify not merely the imposition of a small fee such as I propose, but the levy of full assessment on all culturable waste lands in the occupancy of jannis. Indeed, the only really valid argument that I can think of against imposing the small fee I suggest is that the amount it would yield would probably be too small to be worth collecting, but to that argument there is a very simple and conclusive answer, viz., "In that case,"

"raise the fee." I have been careful to suggest the imposition of a fee rather than of an assessment, because in the latter case its levy would entail the payment of road-fund and village service cesses on its amount, unless specially exempted by legislative enactment, and I do not think that the levy of such additional cesses on waste lands would be quite equitable.

30. The only portion of Malabar into which the fee might be introduced at once is Wynnaad, and having carefully perused the notice issued with the approval of Government in 1856, before the new revenue settlement was introduced, I can find nothing in its terms which in any way prevents its imposition and collection there. It might also be simultaneously introduced into and collected in Nilgiris-Wynnaad. As regards the rest of Malabar the imposition of the fee, taluk by taluk, must necessarily be deferred till the survey and settlement of each is completed. There is nothing that I can see in the Proclamation of 1805, published by Mr. Warden, with the authority of the Madras Government, which militates against its imposition. That proclamation sets out that it is "a just" "system of assessment for the Govern-" "ment to derive its land revenue from" "the patom (or nett rent) payable by the" "cultivator's tenant to his proprietor." This expression "by the cultivator's" "tenant to his proprietor" is not a clear one, but I take it to mean that the Government is entitled to share all rent paid to the landlord. The proclamation then sets out how the produce of wet lands, orchard lands and dry-grain lands is to be divided. Not a word is said about the liability or non-liability of waste lands to assessment, so that the question is an open one. There is no need to argue the point, however, because in G.O., dated 18th April 1883, No. 459, Revenue Department, the Madras Government decided, after careful consideration of the history of the existing settlement of Malabar and South Canara, that "there is nothing in it to" "show that the Government are in any" "way pledged to maintain the present" "assessments unaltered, and in justice to" "the inhabitants of the other parts of the" "Presidency" (His Excellency in Council) "recognises the necessity of" "a revision of the Government demand" "in those districts in order that they may" "contribute their fair share to the necessities of the State." In this view the Government of India concurred (*vide*

letter, dated 15th May 1883, No. 538, Revenue.

31. There is no doubt that Malabar has never yet paid its fair share of land revenue to the public treasury, owing to the want of a scientific cadastral survey of the district and there is no matter which affords more room for regret in connection with the revenue administration of the Presidency than that Malabar was not one of the first, instead of being one of the last, districts to be so surveyed and settled. It is a district which is not subject to any great vicissitudes of season. Its crops are not dependent on irrigation, owing to the abundant rainfall which never fails. It has the largest population of any district in the Presidency, * and, excepting Tanjore, its population is denser per square mile than that of any district, † and yet the incidence of its ryotwari assessments per head of the population, in 1890-91, was only As. 13-4 against Rs. 2-7-8 in Tanjore and against a Presidency average of Rs. 2-0-8, ‡ being thus one-third that of Tanjore and less than half that of the whole of the rest of the Presidency, and this, too, in spite of the fact that, without any charge for irrigation, the incidence of the land revenue per acre of the fully assessed area is eighth in order of heaviness of all the districts, and is considerably higher than the Presidency average, being Rs. 2-2-2 against Rs. 1-9-3. The extreme inaccuracy of the revenue accounts of the district has been proved by the result of the survey and settlement of the Malabar-Wynaad taluk, when the actual area occupied was shown to be 289 per cent., and the increase in demand in assessment 154 per cent., in excess of that entered in the accounts, in respect of the eight amshoms first settled; while in the remaining five amshoms the excess shown was 120 per cent. under assessment and 226 under occupied area. Further proof has been furnished in the Walawauad and Pálghat taluks where (from statistics kindly furnished to me by the Superintendent of Revenue Survey) the excess in occupied area over the revenue accounts, shown by the survey, is nearly 65 per cent. and 56 per cent., respectively, and if similar excesses are discovered in all the other taluks of the district we may expect something like an increase of 60 per cent. in the areas and assessments of all occupied and assessed lands. During the last 35 years the fluctuations in the land revenue of the district have been small, ranging between Rs. 16,87,000 in 1858-59 and Rs. 19,24,000 in 1877-78; the average being Rs. 18,23,000,

* 2,652,565.

† 467 per square mile.

‡ Administration Report for 1890-91, Appendix, Chap. II, P. xxiv.

N.B.—The figures of population in this report are those of the census of 1880-81.

while during the last 15 years the extreme fluctuation has not exceeded 68,000 rupees, so that the people of Malabar have probably escaped, during the former period alone, payment of land revenue to the extent of about 12 lakhs a year, or 420 lakhs in all. These circumstances, of course, afford no ground for treating them with anything approaching harshness or injustice in the matter of revising the land-revenue to be payable by them in future, but they furnish strong reasons for not allowing the existing state of affairs to continue longer than is necessary to complete the survey and settlement of the district, while in settling the new land-revenue assessments there is no class in Malabar whose position more demands just and careful examination, in their relations to the public exchequer, than the janmis, a relatively small, but very influential, class of landed proprietors many of whom possess very large estates which they have been permitted to hold as absolute owners from nearly the beginning of the present century, and of which they have kept a great portion waste in their own hands, without payment of anything by way of land-tax to the State thereon, owing to the accident of there being no survey of their properties, although during much of that period many of them have derived considerable rents from some of these waste lands, and although, according to the revenue practice of the Presidency, and in justice to the other tax-payers in it, these lands ought all along to have been assessed to revenue as occupied private properties.

32. Lastly, on grounds of public policy, the culturable waste lands in the possession of janmis should be made to pay a tax or fee, for its imposition would awaken the janmis, in a way which nothing else would, to a sense of the personal advantage which they would derive by bringing these lands under cultivation by means of tenants or lessees, since they would thus escape the payment of the tax or fee themselves and in its place receive rent from the new tenants, while the Government would receive additional assessment, more land would be brought under cultivation, and thus the whole community would benefit. It might be necessary to take power, by means of a new legislative enactment, to levy the cess, but such a law would be of a very simple character.

3/12/52

J. H. Paulin

No. 1.

PROCLAMATION setting forth the principles on which the Revenue Survey and Settlement of the district of Malabar, exclusive of the Wynaad taluk, is to be conducted.

The High Court of Judicature at Madras having decided in Appeal Suit No. 78 of 1888 that in the case of private janmam lands in Malabar the janmi alone is legally entitled to be registered as the proprietor in the land revenue registers required to be kept under Regulation XXVI of 1802; that he only can be treated as the landholder under the Revenue Recovery Act (Madras Act II of 1864); that in the case of all such lands the Government must deal with the janmi or with his acknowledged representative in interest both in assessing the revenue and in taking steps for its realization; and that all dealings with a third person who has not been put forward as his representative by him are void and of no effect, His Excellency the Governor in Council has been pleased to issue the following rules for the guidance of those officers who may be employed on the survey and settlement of that district, and of the officers of the Malabar district, with a view to bringing the land revenue registers of the district, maintained under Regulation XXVI of 1802, into conformity with the requirements of the law and the rights of the holders of land, and also to safeguard the revenues of the State.

Rules.

1. The "desam" shall be taken as the administrative unit for the purposes of the survey and settlement.
2. With a view to the accurate registration of janmam titles, every individual janmam estate, of whatever extent, shall be separately demarcated, surveyed and registered.
3. All lands comprised in each estate whether "wet," "dry" or "garden," and whether cultivated or uncultivated, cultivable or uncultivable, shall be surveyed and demarcated into fields of a size suitable to circumstances.
4. The name of the janmi of each such estate shall be ascertained by summary inquiry and shall be entered in the Survey and Settlement register subject to the ultimate decision of the Civil Courts in cases of dispute. Where the janmi is not in actual occupancy himself, the name of his tenant or of the actual occupier shall also be entered in the said register.
5. Rates of assessment shall be assessed on all cultivable lands, but shall be levied only on such lands as are now, or may hereafter be, actually brought under cultivation, or taken up for any other beneficial enjoyment; provided that, in respect of all forests and other waste lands in the occupancy of janmis themselves, which are capable of being cleared and cultivated, or of being taken up for any other beneficial enjoyment, there shall be levied from the janmis a fee or tax not exceeding 6 pies per acre, but when any of these lands are sublet or leased out, then this fee or tax shall cease to be levied, and in its place the land revenue assessment assessed on such lands under these rules shall become payable and shall be levied.
6. Uncultivable lands shall not be assessed, nor shall such areas as are taken up for roads or other public purposes, but should any of such lands or areas be hereafter reclaimed and cultivated, the rates of assessment imposed on neighbouring lands of similar quality shall be levied on them.
7. The Revenue settlement shall be based on a field assessment and shall hold good for 30 years, when it may be revised.
8. The revenue registry of all private janmam lands whether cultivated or occupied for purposes of cultivation or other beneficial enjoyment shall be made in the name of the janmi, unless he refuses the registry or desires that his tenant or lessee shall be registered as his representative, in both of which cases evidence shall be recorded of the fact and it shall also be noted in the register.
9. In the event of a janmi refusing registry in his own or his tenant's name in the revenue register, and persisting in his refusal for a period of 3 months, the registry shall be made in the name of the tenant in actual possession, and the janmi's liability will be the same as if he had consented to such registry. Where, however, a janmi's land is occupied without his knowledge and consent, notice of such occupation shall, as soon as practicable, be given to him by the Revenue officers of Government, and if within 3 months he assents to the revenue registry of the land in his own name, it shall be so registered, but if he refuses or neglects to assent within that period, the registry of the land shall be made in the revenue register in the name of the actual occupier and the janmi's liability will be the same as if he had consented thereto.

10. The practice of granting cowles for the cultivation of private janmam waste lands, without reference to the janmi, by the revenue authorities of Malabar, shall cease.

11. When such lands are occupied by any person other than the janmi himself, but with his knowledge and consent, it shall be the janmi's duty to give prompt intimation of the fact to the revenue authorities with all particulars as to the name of the occupant and the name, situation and extent of the land occupied. The land will then be registered in the revenue registry in the name of the janmi himself, or, should he so desire it, of the occupant designated by him as his representative. Any failure to give the above information will render the janmi personally responsible for the revenue assessed on the land.

12. In recovering arrears of the Government dues, in the cases specified in rules 9 and 11, the land and the crops thereon shall be first attached and sold and the janmi's other moveable and immoveable property, if necessary, afterwards; but beyond attaching and selling the crops on the land, no action shall be taken to attach and sell the land itself during the period of three months' notice specified in rule 9, in cases where the land has been occupied without the janmi's knowledge and consent, so that he may be enabled to take steps to eject the occupier and save the land from sale by paying off any balance that may be due in respect of it.

13. There shall be a separate land revenue register for each desam, and all lands belonging to the same janmi, and situated in the same desam and registered as occupied by the same tenant, may be entered in the same patta.

14. The registered occupiers of all private janmam lands, where they are not the janmis themselves, will, as regards Government, be responsible for the revenue, in the first instance, and the janmis afterwards (as set out in rule 12) until the lands pass from their possession by sale for arrears of revenue or in some other legal manner. The liability of the occupiers for the public dues will continue notwithstanding the transfer or disposal of any part of their holdings until such transfer or disposal is formally registered in the revenue register of the desam.

15. All relinquishments of assessed janmam land must be made through the janmi.

16. The Governor in Council desires it to be clearly understood that the above rules are not intended in any way to affect the land tenures obtaining in the district of Malabar, or to disturb in any way the prevailing relations between landlords and tenants, or to prejudice in any way the proprietary rights of landowners.

No. 2.

NOTIFICATION applicable to the Wynaad taluks of the Malabar and Nilgiris districts, known as Malabar-Wynaad and Nilgiris-Wynaad.

Whereas the whole of the district or taluk known as the Wynaad, of which a portion has been transferred to the Nilgiris district, originally belonged to the Malabar district; and whereas the decision of the High Court of Judicature at Madras ~~alluded to in Proclamation No. 1 of the~~ is as applicable to the Nilgiris-Wynaad as to Malabar-Wynaad, seeing that Malabar land tenures prevail in both; and whereas it is necessary in consequence of that decision that the land-revenue registers kept under Regulation XXVI of 1802, in the said two taluks, should be revised and re-written, where necessary, in order to secure and safeguard the rights of the owners of land and the revenues of the State; and whereas it is necessary or expedient that the survey of portions of Malabar-Wynaad and Nilgiris-Wynaad should be revised, and that the survey and settlement registers should be altered to correspond with such revision of survey; His Excellency the Governor in Council is pleased to declare that the rules laid down in Proclamation No. 1 of the are applicable, so far as may be necessary or expedient, to the Malabar-Wynaad and Nilgiris-Wynaad taluks, subject to the following limitation, viz. :—

1. That nothing contained in the said rules shall in any way affect the revenue settlement recently introduced into Malabar-Wynaad and Nilgiris-Wynaad, so far as the classification of land, the rates of assessment, and the settled demand are concerned, but the proviso to rule 5 of those rules shall apply to Malabar-Wynaad and Nilgiris-Wynaad equally with Malabar proper.

13 124
13 47

A.S. N. 70
9/10/02

The most important question in these papers is that raised by my hon. colleague in part of his minute, viz. the imposition of a cess or fee on all cultivable jumm lands in Malabar. Whether this fee is land revenue or not, my hon. colleague seems not very clear. He calls it a tribute to the State for protecting the jumm in the possession of their property. If that is ^{the nature of it} so, I am unable to see why jumm in particular should be made liable to this special impost, and it is plain that legislation alone can make them so liable. But my hon. colleague alludes to a decision of the alluded High Court to the effect that no length of prescription can bar the Govt. claim to revenue from land; which is no doubt sound law, but does not establish the proposition that Govt. can at will impose charges upon land which are not land revenue. He says further that, not being land revenue, the existing land revenue laws will not be changed upon this cess or fee; whereas if it were land revenue they undoubtedly would be. However, he ~~proposes~~ ^{proposes} that the cess or fee shall be charged only on cultivated land which looks as if he thought it had some affinity with land revenue.

the course which has actually been adopted in the management of estates in the Wyand, & which as I shall show below is not in any way inconsistent with the principle that in treating as elsewhere land revenue is a share of the crops and therefore leviable only on land taken up for cultivation.

to his report on the forests of Wyandott
dealt with in the same Prog. of the B.D.

to Robinsons while urging the private character of these forests by virtue of former right, never suggests that they should be assessed or charged in any way, and goes strongly against "assumption" of any kind. I confess however that I

The Board of the day seem to have felt the similar difficulty. In para 18 of his letter of the 22 Aug. 57 he lays the right of Govt. to derive a ~~revenue~~ tax from cultivated land of full description in Malabar is undoubted. The Board sent him as "pointing out that the principle of taxing uncultivated land is new to the district" & say that he considers it would be almost impracticable to levy any general rate over the jungle tracts. In para 52 of the Board's Reply they say that as the land belongs to private individuals the rights of the state are restricted to the levy of assessment on land brought under cultivation.

See p. 23 of C.O. 21 June 37 10822

See para 64, 71, 78 & 79 of their Report

page 44 of their Rep^t.

Q. Are comprised within estate limits only.

I don't think any of the parties to this discussion even contemplated the unworkment of jinnah waste in Malabar, but it hardly comes to lay as my hon colleague does that the Govt of the day furthered hunting orders upon it. The question was really not before them.

3. They have likewise my respects to
two cases of revenue sanction in this be-
sides which he claims no precedent
for his proposed tax or fee on jama land
viz. the tax paid on the uncul-
tivated portions of coffee & other estates in
the Wyand & the fact that in the
ordinary ryotwar panchabandi settlements
a change occurs every year on land left
waste. Neither of these in my opinion
supports his case, but on the contrary
both are dead against it. The change
in the Wyand estates was of the
nature of a competition for better position
extension of cultivation during the term
of the settlement ^{was} intended merely to
have annual measurement of the culti-
vated extent & which, it was recognized,
the Govt. right to assessment alone applied.
The case of change on ryotwar estates is
the same in principle. It is agreed as
to uncultivated land that land is assumed
to be occupied for that purpose. But
to ~~assess the same as if it were~~ requiring some work
a deduction is made from the esti-
mated produce to meet the charges
of the land lying waste under irri-
gation of pascu; and such deduction

to him too, one for the unsellable portions
of Malabar & one for the Wynad &
Nilgiri Wynad. The Board's draft
of the former, omitting para 8, seems
to me good enough. I accept the verbal
amendments made by my own colleagues
on the copy of the Board's Prop^s which
I have initialed.

W
5 Jan.

At the Revenue Department the
Madras Presidency and in
Malabar (formerly P. Census),
the land which is waste &
uncultivated belongs to the State
& so there is no one to be
assessed on it. - J.H.

I am aware of such a
position & as long as it
will stand on that one
- being - P.L. the for matter
the the question - whether
it is or is not a waste - J.H.

I cannot see the

Jentris in Malabar

I have carefully considered all the
arguments brought forward by the
hon. Mr. Jentris in support of his
proposal to raise an assessment or
less on the waste lands held on
Jentris tenure in Malabar, but I do
not find myself able to agree with him
on the points raised by him.

Taking the matter first as land revenue,
I cannot disabuse my mind of the
fact that in the Madras Presidency
land revenue has been always held by
the Govt. to be the share taken by Govt.
on lands taken up for cultivation, and
that it has never been the practice to
charge land assessment on waste lands
as such. It may be that lands taken
up for cultivation are not cultivated,
and that assessment is charged not with-
standing, but in all such cases deductions
have been made in calculating the revenue
for periods more or less short when the
cultivator allows the land to lie fallow,
and the person so charged has presumably
left the land idle as being more advan-
tious to himself than its uncultivated
cultivation would be. This is quite
different from charging assessment on
land, which though in the occupation
of an individual is not cultivated by
him, and is permitted to lie waste.

ich occupation is not beneficial to the
wheat, and to long assessment on such
and would in my opinion be to punish
him for not cultivating the land. The
time for treating owners of land has
not, I think, yet arrived, and it would
require very strong evidence of the injury
caused to the community by the non-
cultivation of such lands, before any
Govt. would consent to lay such a
tax on owners of waste lands.
The imposition of assessment on these
lands would be an entirely new
departure from the practice hitherto
followed in this Presidency, a practice
which I believe may now fairly be
described as legalized by custom, and
I doubt very much if such an imposition
if adopted would be capable of defence
if challenged in the courts of law.
how would the custom of Bombay -
or the h. & P. Provinces - or any other
parts of India to derive revenue
from all land constitute any argument
for imposing it in this case in this
Presidency. Besides I cannot read
the agreement come to with the land
owners of Malabar in 1803 - and 1808
as in any way leaving open the door for
any future Govt. to impose assessment
on waste lands, if it should at any
time see fit to do so. On the contrary
I think that that agreement implied
if it did not expressly state that

It is implied if he gets
income from the land as waste
on the Malabar / owners do
L.H.

I presume H.C. has referred
to the taking of law for the
purpose of Abolishing the
waste land revenue.
16/2/90 L.H.
W.M.

Govt. would impose assessment on
waste lands, only when they came under
cultivation.
It therefore appears to me that the hon.
Mr. Gair's proposal would introduce
a measure contrary to the principles
underlying the land revenue system of
this Presidency - contrary to the universal
custom prevailing here, and likely to
lead to discontent, and possibly to
danger. There is sure to be in
Malabar a good deal of uneasiness
as the results of the settlement
become known - there is at present
much dis-satisfaction at the working
of the Free-tax system, and if on
the top of these we impose an entirely
new principle of assessment on the
Jemins, we shall in all probability
have to face an outbreak of a serious
character.
I fully sympathize with the hon. Member
in his endeavour to increase the Govt.
revenues - but I deprecate strongly
his efforts in this direction. He is
bothered at this class of land owner
escaping taxation which he thinks
they ought to pay - but even if this were
the case I do not see that the Govt.
would get any return commensurate
with the very grave risks which they
would run in trying to obtain it -
and as the hon. Sir H. Stokes puts it -
"The game is not worth the candle."

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Another reason put forward by the hon. Mr. Ganshin is that the result of such an imposition as he proposes would force the land owners to let their lands more freely taken up for cultivation, and on this ground of public policy he urges the adoption of his scheme. The figures show that a large amount of new cultivation some 9000 acres is being taken up for cultivation, and I think that this fact shows that the Janmis are sufficiently alive to their own interests, and are not in need of such a stimulus as the imposition of a small penalty an acre on their waste lands to induce them to get the income which the cultivation of their lands will bring them.

I would say therefore that on grounds of public policy it is not shown that there exists any necessity for this measure. On the contrary I would maintain that on grounds of public policy this proposal is unnecessary and dangerous.

As to the proclamation I agree with my hon. colleagues.

W
18 Jan

induce

MINUTE.

My Honorable Colleagues are both opposed to the adoption of any measures for levying the fee or tax I suggested for consideration, namely, 6 pies per acre on all culturable but uncultivated land in the possession of Janmis in Malabar, one of their arguments being that the figures I had worked out tended to show that the game would not be worth the candle, or, in other words, that the revenue would not be worth collecting.

I have already admitted that if that is so, the objection is a valid one, and though I have not gone to the trouble of working out the probable financial result, I incline to the same view myself, and I therefore do not press that specific proposal any further, being content with having proved, not only the worthlessness of Mr. Logan's dictum that a tax of 1 pie per acre on such uncultivated lands would be more than any Janmi could afford to pay, but also that there is some ground for believing that a tax of six times that amount would fall so lightly and yield so little as not to be worth collecting. But since I wrote my minute I have discussed the question with a large Malabar Janmi, the Rajah of Parapanad (or Paraparaginad), who owns lands in seven amshams, and who said that while the levy of any tax on useless lands such as rocks and hills which could not be made to yield any income would be a hardship and distasteful to Janmis, yet that it would be perfectly fair and in accordance with local custom to levy an assessment from all Janmis in respect of any land which was not cultivated but from which they derived any rent or other profit. I therefore suggest that before the proposed notification issues relative to the Malabar settlement, the Commissioner of Revenue Settlement should be told to inquire into this matter, and if his report confirms the view of the Parapanad Rajah, then it should be notified, in the notification, that the Government reserves to itself the right to levy an assessment of 2 annas an acre, or of a sum equal to half the rental derived therefrom, whichever is lowest, on all uncultivated but culturable land, such as forests, from which the Janmi derives any profit or rent. If this is agreed to, the notification now circulated had better not issue till the report called for is received.

Such an assessment would be quite in accord with the principle laid down in the notification of 1805 that it is just that the State should receive a share of the landlord's "patam" or rent.

There is, I believe, not much forest land which is not a source of income to Janmis either by being leased out for timber-felling or grazing, or for the collection of forest produce of various kinds, and the tax of 2 annas an acre would probably bring in a considerable revenue, which would, I believe, be paid without objection as being in accordance with local custom.

Although I no longer press the consideration of the specific question I first suggested, I still adhere to my view that all lands in Malabar, being private property, are occupied and that all occupied land that is culturable is liable to pay land-revenue to Government. My Honorable Colleague, Sir H. Stokes, has stated in his note that culturable land is assumed to be occupied for the purposes of cultivation. No doubt that is so, and it is as much the case in Malabar as anywhere else, and hence the liability to pay the assessment on land originates on its being occupied and continues during occupancy, whether the land is cultivated or not. The argument that the enforcement of this liability (in the levy of assessment), whether the land is cultivated or not, is only another way of acknowledging that an allowance for vicissitudes of seasons is made at settlement, is unsound and does not explain correctly the origin of the practice, which is of far older date than any British settlement. The great Hindu lawgiver, Manu, lays down that the king may take a share of the grain crops "according to the difference of the soil and the labour necessary to cultivate it" (Institutes of Manu, by Sir W. Jones, Chapter VII, 130), but he also lays down that the farmer is bound to cultivate his field "and if he fails to sow it in due time he shall be fined ten times as much as the king's share of the crop that might otherwise have been raised" (Ibid., Chapter VIII, 243).

I said

Mythian said

W

Here, then, is the real ancient and original authority for compelling the owner or occupier of culturable land to cultivate it and for imposing a penalty on him if he lets it lie waste. There never was any question of allowance for vicissitudes of season till such an idea was invented by the Madras Government subsequent to 1859. The law as laid down by Manu applies to the whole of India, and I confess I was not prepared for His Excellency the Governor refusing, in his note, to admit that the custom of Bombay or the North-Western Provinces or of any other part of India, of deriving revenue from all lands, constitutes an argument for levying it on occupied but uncultivated lands in Malabar. The custom in Bombay and Mysore, where the ryotwari system prevails, just as in Madras, is embodied in the statute law of those Provinces, and so it is in all parts of India except Madras; while in Madras the practice is really the same, as proved by the enormous area of occupied land annually charged with assessment although left uncultivated, as shown in my first Minute. The only difference between Malabar and the rest of the Madras Presidency—except, possibly, South Canara—is that, while in all the rest of the Presidency the proprietary right to all land of any description which is not occupied vests in the State, by the Statutory declaration contained in the preamble to Regulation XXXI of 1802, in Malabar it has been ~~long ago~~ erroneously surrendered to the Jannmis of that district. There is thus no unoccupied land in Malabar and consequently there is no "waste" in the true sense of the term, though there are very large areas of uncultivated land. Mr. Baden Powell at page 236 of Vol. 1 of his "Systems of Land Tenure in India" lays down that "Land is not 'waste' if it has been occupied even though left uncultivated," and this is, no doubt, correct. This is the case of Malabar, where all occupied but uncultivated lands are, if culturable, as much liable to be assessed to revenue as if they were lands held on puttah on the East Coast. Mr. Baden Powell's work has, I believe, been adopted by the Government of India as a text-book for the officers of certain departments.

(Signed) J. H. GARSTIN.

J. H. Garstin

24/2/93

K. J. J.

I do not agree to the proposal now formulated by my hon. colleague which is substantiating the same as that we have already dealt with, and open to the same objections. If the Raja of Parapanad affirmed a local custom to levy an assessment on jenu warts, in any shape or form, he cannot have understood what he was saying. There is no such custom.

18th
25th

Surely, if there is such a custom of the existence of which I am very skeptical - we can ascertain all about it in a few days. It is strange that during all this discussion nothing was ever heard or said about this suspicious Laras an acre. Ask the Collector of Malabar.

W
3 Mar.

6 That I write has been quite misapprehended by my Hon. Colleague. The Parapanad Raja said that if the Govt. chose to levy an assessment

xx

xx on uncultivated land belonging to jenuis, from which land they derived a rental, it would be perfectly fair to demand that such an assessment should be in accordance with local custom, which is, that the Govt. has a right to share in the rental from land. He replied, no did I, that such an assessment was levied on rice land, on waste land. I do not think that what I wrote is at all obnoxious to the Hon. Colleague, put on it by my Hon. Colleague. It is not a question whether "a very serious 2 assessment" is levied on the Govt. or not. It is a question whether, if the Govt. levies an assessment on waste land, it will be objectionable to - and whether it is important enough to be put as being based on the local custom of 1005 that the notification of the State should be issued to the jenuis to receive a portion of the "Palam" or rental.

12/3/93

J.H.S

D.O. 14th 185
the collector
Malabar.

My Dear Bradley

In the course of conversation with the Hon. the Garstin the Raja of Parapanad appears to have stated that there is a local custom in Malabar to ~~levy an assessment from jenuis in respect of~~ ~~which we are not entitled to~~ ~~levy from which they derive any rental or profit~~. I am to request that you will enquire and report as soon as possible whether there is any such custom in Malabar. I am, Sir, your obedient servant.

recognizes the custom in Malabar that the Raja has a right to share in any rent derived by jenuis from any of his lands - that if the Govt. were to impose an assessment on all waste land belonging to jenuis from which they derived a profit, (such as forest land or land for grazing or other purposes for an annual rental) there could be no objection to such an assessment as it would be based on the recognized local custom of 1005 as to the right of Govt. to share in rents received from jenuis.

12/10/93

13th

H. C. the Governor again -

finding that H.C. the Governor
 asked a reference made to the
 Mr. J. Malabar. I sent to him
 Mr. Garstin the amended
 - with a draft also to the
 adky - I now circulate the
 as amended by the Govt.
 before despatching it -
 understand it to be H.C. the
 is wish that the Govt. should
 asked as to the alleged
 of the alleged custom -
 I presume it is not desired
 the Govt. should make any
 an inquiry -

13/3

inly not.
 understood from the hon. Mr. Garstin's minute
 the Rajah of Panpand told him that
 would be in accordance with local
 to levy an assessment from the
 of uncultivated land but from
 by derived rent or profit. But the hon.
 explains how that I saw not to under-
 this, and therefore I think no reference
 made - but that the notification

Hon. Mr. Garstin C.S.D.

With a view to maintain from
 the Collector, as suggested by H.C.
 the Governor, how the matter
 actually stands - the amended
 has been drafted - But
 I am not clear whether the
 Rajah's meaning is that the
 fee is paid as assessment
 to Govt. as the Hon. Garstin
 suggests or say - or
 whether the Government collect
 such a fee from their
 tenants -

11/6/3

should issue in the time agreed upon
 by Sir H. Stokes & myself as regards
 the assessment on Jumbis - and as
 agreed upon by both hon. colleagues
 in the other respects.

15 Mar

6/3 19/3

Proclamation setting forth
 the principles on which the
 revenue survey and settle-
 ment of the District of
 Malabar, exclusive of the
 Wynad taluk, is to be
 conducted.

Hon. Mr. Garstin has proposed
 - at para 42 of his note for orders -
 that the first 3 paras of his Raj
 Proclamation should be struck
 out - apparently this is not one of
 the verbal amendments Mr. H.C. the
 H. Stokes accepts -

"demonstrated" at para 5 (a) for
 out with ref. to the Raj's revision
 Survey Rules B.P. 733
 11.11.92

No - this is wrong
 as the Govt. has
 to be done. I don't
 think it is better
 to leave out the word
 "demonstrated" as the material
 being proposed of the
 proclamation is the survey
 duty. I would retain
 the first three paras.

W.C.

[note A copy of the Board's
 proclamation amended as
 agreed to by both the H. C.
 is put up - wide paper
 marked (S.S.) and orders
 are requested as to whether
 the proclamation to be
 appended to the G.O. is the
 one amended as above]

Appendix II

Proclamation setting forth
 the principles on which
 the recent survey and settle-
 ment of the Wynad taluk
 of the Malabar and Nilgiri
 districts will be provided in view
 to bring the land
 registers of these taluks in
 conformity

conformity with the require-
ments of the law as lately
enacted by the High
Court

"Whereas the whole of the territory
distinct or taluk known as
the Wynaad (of which a portion
has been transferred to the
Kilgiris District) originally
belonged to the Malabar District;
and whereas the decision of
the High Court of Judicature
at Madras in A.S. No 78
of 1888 is ~~so~~ applicable to
the Kilgiris Wynaad ^{taluk} as to
Malabar Wynaad ~~seeing~~ ^{since}
that Malabar land tenures
prevail in both; and where-
as it is necessary in con-
sequence of that decision
that the land revenue registers
kept under Regulation XXVI
of 1802 in the said two taluks
should be revised and re-
written where necessary
in order to secure and
safeguard the rights of the
owners of the land and the
revenues

169 150 75
revenues of the State; and
whereas it is necessary or
expedient that the survey
of portions of Malabar Wynaad
and Kilgiris-Wynaad should
be revised, and that the survey
and settlement registers should
be altered to correspond with
such revision of survey;
His Excellency the Governor
in Council is pleased to
declare that the rules laid
down in Proclamation No
I of the ... are applicable
so far as may be necessary
or expedient to the Malabar-
Wynaad and Kilgiris-Wynaad
taluks, subject to the following
limitation, viz:

1. That nothing contained
in the said rules shall in
any way affect the revenue
settlement recently introduced
into the Malabar-Wynaad and
Kilgiris-Wynaad so far as
the classification of land,
the rates of assessment, and
the settled demand are
concerned.

Trist

157
[Note The above is taken from
the H. H.'s draft as given Mr. Hartman
at page 23 of his minute
but the concluding clause
has been omitted in the re-
=ference to the decision that
waste lands of Jannins are
not to be assessed. The Hon.
Sir Henry Stokes has not
expressed an opinion in
regard to the proclamation.
In regard to the proclamation
His Excellency has recently
remarked as follows:

"as to the proclamation
I agree with my honorable
colleagues.]"

R.V.R. Reporting to App. B. & C.P.

13/2 402
31.5.92. 29/15/2.

C. Nos. 5182, 6523 & 9878
7/1892

Proclamation
Re. Settlement of
Malabar and the
Wynaad.

Whereas

H.E. the Govt. of India - with a view
to the Govt. of the Wynaad

of 24th/93 - 11/27/2

Print
and clear
proof stamp for all
of the same

W.H.

85/2

C. 15/2
Q. 27/2

11. 27/2.

Govt. of {1893} Madras.
REVENUE.

Sharp.

Issued

Recd.

Encl.

27 April 1893, no. 346.

G.O., 18th March 1893, No. 242.

MARCH.

Seen L.H. 8/14/93

Submitted to the Hon. Mr. G. S. I.

R.V.
5/4.

16

24. 6/4.

Minute.

I am not party to the G.O.
which appears to be incomplete
x+x

6/4.

x+x

and observe to read down of
I don't see reason that the
proposed resettlement is to last
for 30 years & may be revised at
the end of that period.

14/4/93

L.H. Gant

REVENUE DEPARTMENT.

Current No.

From

Dated

FOR ORDERS.

G.O. No. 18 March 1893 No. 242

Promulgation in regard to the
revision of Settlements. 2
L.H. Gant

The draft G.O. is circulated
for the approval of the Hon.
Mr. G. S. I. The Hon. Mr. G. S. I.
has observed that the proposed
resettlement is to last for
30 years & may be revised at
the end of that period. It is
admitted that it is unnecessary
to make a distinction as to
this effect in the proclamation
as it is well understood that
the term of the resettlement
is 30 years & under para 4
of G.O. No. 18 March 1893
it is stipulated by the Hon.
Mr. G. S. I. that the Hon.
Mr. G. S. I. is to be introduced
in the revised rules.

See

The above may be used but the
 the Hon. Secy. & his committee have
 reported in full in a few copies
 printed & is distributed in the paper
 which are issued from the office.

FROM CIRCULATION

WITHOUT
 REMARKS.

Handwritten notes in box:
 The Hon. Secy. & his committee have
 reported in full in a few copies
 printed & is distributed in the paper
 which are issued from the office.

The Hon. Secy. & his committee
 H. E. the Governor.

Please see deep note
 attached. First in some
 copies the Hon. Secy. & his committee
 minutes (which are signed
 in full); the notes need
 not be printed. The H. E.
 says that the G. & S. should
 be one sheet.

Handwritten notes at bottom left:
 H. E.
 The Hon. Secy. & his committee
 have reported in full in a few copies
 printed & is distributed in the paper
 which are issued from the office.

REVENUE DEPARTMENT.

Current No.

50. 22 April/83
 346.

From

Dated

189 .

FOR ORDERS.

A proof of the above order is
 I have enclosed the
 proof of my 3 minutes minutes to the Hon. Secy.
 & his committee & the Hon. Secy. & his committee
 to the Hon. Secy. & his committee have the opportunity of re-
 sponding. I am using his minutes printed
 therein -

I like very much of the
 proof of my 3 minutes minutes
 printed in the paper sent
 to the Hon. Secy. & his committee

Ch
 15 May.

2. With respect to the proclamation proposed to be issued the Govt considers that the best course is to deal with the whole of the Wynad in one proclamation and the unsettled taluks of Malabar in another as the work to be done in the Wynad taluks whether in the Nilgiri dt or Malabar is the same and can be carried out at once in advance of the survey and settlement of the unsettled taluks of Malabar.

G. B. 242
18.3.93

3. As regards the survey of the Malabar district the Govt pres in the Board remarks in paras 3-14 of its Propd of 31.5.92 no 402 and paras 2 & 3 of its Propd of 11.11.92 no 733 and approves the revised rules submitted with the latter Propd.

4. The Board proposes that instead of having two columns in the settlement register one to show the name of the gannin and one

one that of the patta dar, only one column should be maintained to show the name of the registered gannin or his recognised representative and it states as a reason for this proposal that "under the settlement which will be now carried out... the gannin as distinguished from the patta dar will have no separate existence". But this is a complete misconception of the principles of the new settlement one of the declared objects of which is to recognise the gannin as the landholder and to register his estate in his name. It is true that for purposes of recovery of land revenue the registered patta dar will be treated as the landholder whether he is the gannin of the land or only his representative; but the Board's proposal involves the complete obliteration of the distinction between the two which is inconsistent with

145
with the main principle of
the new settlement. The
Govt accordingly direct
that to the columns
referred to above should be
maintained.

5. As regards the question
raised whether assessment
is to be levied on all private
Jannam lands or only on
such of them as are occupied
for cultivation or other home-
-official uses the Govt agree
in the opinion expressed by
the Board in para 11 of its Prop
of 31. 5. 92 No 452.

6. Two proclamations to be
issued in respect of the
unsettled taluks of Malabar
and the already settled taluks
of Wynad are appended to
this order.

Original
Govt. of 1893 Madras.
REVENUE.

For Passed and not for Issue:

Issued

Recd.

Encl.

G.O., 27th April 1893, No. 346.

APRIL

Malabar.

Considering it expedient to deal with the
Wynad taluka alike, whether in the Nilgiri
district or in Malabar, and to issue a single pro-
clamation in connection with their settlement
and another in connection with the unsettled
taluka of Malabar, and approving the revised
rules for the conduct of survey operations in
Malabar.

Regular
MISCELLANEOUS SERIES.

REVENUE DEPARTMENT.	
G.O., DATED	27 th April
No. 346	1897.

When given for copying.

[Despatch Abstract.]

Malabar Settlement

Passing order

in the case

in the case

Settlement of Malabar

and the Cargand

12-12-03

12-3-12

14-12-12

10-7-13

24-6-17

7-8-19

11-11-31

28-10-40